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Attorney for Plaintiff, BUR-TEX HOSIERY, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BUR-TEX HOSIERY, INC., an
Alabama corporation,

Plaintiff,

v.

WORLD TECH TOYS, INC., a
California corporation; INOV8
MARKETING LLC, a New York
limited liability company; JACK
SAFDEYE, an individual; DAVID
LINKER, an individual; and DOES 1
through 10, inclusive,

Defendants.

Case No:

Judge:

Dept:

VERIFIED COMPLAINT FOR:

- (1) **BREACH OF CONTRACT;**
- (2) **BREACH OF IMPLIED CONTRACT;**
- (3) **BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING;**
- (4) **FRAUD IN THE INDUCEMENT;**
- (5) **INTENTIONAL MISREPRESENTATION;**
- (6) **INTENTIONAL INTERFERENCE WITH CONTRACT;**
- (7) **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;**
- (8) **UNFAIR COMPETITION;**
- (9) **CONVERSION [CAL PENAL CODE § 496(c)];**
- (10) **CONSPIRACY**

DEMAND FOR JURY TRIAL

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1 Plaintiff BUR-TEX HOSIERY, INC. hereby alleges the following as
2 against all Defendants:

3 **PARTIES**

- 4 1. Plaintiff BUR-TEX HOSIERY, INC. (hereinafter “Plaintiff” or “BUR-TEX”)
5 is and at all times herein mentioned, an Alabama corporation conducting
6 business in and under the laws of the state of Alabama with an entity location
7 commonly known as 521 Graves Street, Fyffe, Alabama 35971.
8
- 9 2. Plaintiff is informed and believes, and thereon alleges that Defendant WORLD
10 TECH TOYS, INC. (hereinafter “Defendant” or “WORLD TECH TOYS”) at
11 all times mentioned herein is a California corporation conducting business in
12 and under the laws of the state of California with an entity location address
13 commonly known as 28777 Witherspoon Parkway, Valencia, California
14 91355.
- 15 3. Plaintiff is informed and believes, and thereon alleges that Defendant INOV8
16 MARKETING LLC (hereinafter “Defendant” or “INOV8”) at all times
17 mentioned herein is a New York limited liability company conducting business
18 in and under the laws of the state of New York with an entity location address
19 commonly known as 45 W. 36th Street, New York, New York 10018.
- 20 4. Plaintiff is informed and believes, and thereon alleges that Defendant JACK
21 SAFDEYE (hereinafter “Defendant” or “SAFDEYE”) at all times mentioned
22 herein is a resident of the County of Albany, State of New York.
- 23 5. Plaintiff is informed and believes, and thereon alleges that Defendant DAVID
24 LINKER (hereinafter “Defendant” or “LINKER”) at all times mentioned
25 herein is a resident of the County of Cabarrus, State of North Carolina.
- 26 6. The true and correct names of Defendants named herein as DOES 1 through
27 10, inclusive, whether individual, corporate, associate or otherwise are
28 unknown to Plaintiff, who therefore sues said Defendants by fictitious names,

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1 and when the same have been ascertained, Plaintiff will amend this Complaint
2 to allege their true names and capacities. Plaintiff is informed and believes, and
3 thereon alleges, that each Defendant designated herein as a DOE Defendant
4 was liable at the time of the incidents in question, and that each of the DOE
5 Defendants is legally responsible in some manner for the events and
6 happenings herein referred to and caused the injuries and damages to Plaintiff
7 as herein alleged.

- 8
9 7. At all times herein mentioned, the Defendants, and each of them, were agents,
10 servants, or employees of any co-defendants, and acting within the scope and
11 course of said agency and/or with the permission and consent of said co-
12 defendants.
- 13 8. Plaintiff is informed and believes and based thereon alleges that at all times
14 herein mentioned, a unity of interest exists between the Defendants such that
15 there is no distinction between the individual Defendants named herein and the
16 entities and if the acts alleged herein against the entities are treated as to the
17 acts of entities alone, an inequitable result will follow.

18 **JURISDICTION AND VENUE**

- 19
20 9. Jurisdiction exists pursuant to 28 U.S.C. § 1332(a)(1), which states that “the
21 district courts shall have original jurisdiction of all civil actions where the
22 matter in controversy is between the citizens of different states.”
- 23 10. Plaintiff BUR-TEX is an active and registered Alabama corporation, while
24 Defendant WORLD TECH TOYS is, at all times mentioned herein, a citizen of
25 the state of California, Defendants INOV8 and SAFDEYE are, at all times
26 mentioned herein, citizens of the State of New York, and Defendant LINKER
27 is, at all times mentioned herein, a citizen of the State of North Carolina.
- 28 11. The damages Plaintiff suffered exceeds the requisite sum or value of \$75,000,

1 exclusive of interest and costs as required by 28 U.S.C. § 1332.

2 12. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2), which states that a civil
3 action may be brought in “a judicial district in which a substantial part of the
4 events or omissions giving rise to the claim occurred, or a substantial part of
5 property that is the subject of the action is situated.”
6

7 **SUMMARY OF THE CASE**

8 13. This case involves a family-owned business involved in the design and
9 manufacturing of hosiery, and specifically, socks.

10 14. At the onset of the Covid-19 pandemic, this company was requested to obtain
11 personal protective equipment (“PPE”) in response to the Covid-19 pandemic.
12 The PPE requested was specific in nature, and the order specifically required
13 100% nitrile gloves.
14

15 15. Upon ordering entire shipments of the gloves that were supposedly 100%
16 nitrile, tests were conducted by the business owner, and it was discovered that
17 the gloves were not, in fact, nitrile. Despite the fact that the seller subsequently
18 provided product information stating that the gloves were comprised of nitrile-
19 equivalent, the gloves were actually 100% plastic, which rendered the business
20 in breach of the contract it had entered into to supply 100% nitrile gloves.

21 16. Plaintiff, a family-owned business who simply sought to fulfill an order for a
22 customer, has therefore been forced to sustain massive losses in shipping,
23 storage, and return of the non-conforming goods.

24 **STATEMENT OF FACTS**

25 17. Plaintiff is a currently active and registered Alabama corporation, dealing in
26 the design and manufacture of hosiery, and specifically, socks. Plaintiff offers
27 various types of socks, including but not limited to athletic socks, compression
28 socks, socks tailored specifically for arch support, compression socks, diabetic

1 socks, and boot socks, and caters to several national retailers.

2
3 **A. Relationship with Defendants Safdeye and Linker**

4 18. During the peak of the Covid-19 pandemic in 2020, when supply and demand
5 for PPE was high, Plaintiff contacted Defendant LINKER to assist in the
6 acquisition of PPE aid, such as gloves and masks.

7 19. Plaintiff and Defendant LINKER had a preexisting business relationship,
8 wherein Plaintiff and Defendant LINKER were involved in a business owned
9 by Defendant LINKER's grandfather called Shoe Show. On information and
10 belief, Shoe Show, Inc., a footwear retailer company in North Carolina, is
11 worth approximately \$8 billion. When Plaintiff took over the Shoe Show
12 business, Shoe Show had an account worth approximately \$3,000,000.00.
13 Plaintiff's substantial contributions resulted in the account increasing to
14 approximately \$7,000,000.00. The arrangement between Plaintiff and
15 Defendant LINKER was for Defendant LINKER to ensure Plaintiff received
16 orders, for which Plaintiff then sourced and shipped, splitting profits equally
17 with Defendant LINKER.

18
19 20. Defendant LINKER thereafter introduced Plaintiff to Defendant SAFDEYE,
20 who at all times mentioned herein was the Chief Executive Officer ("CEO") of
21 Defendant INOV8. Through Defendants INOV8 and SAFDEYE, acting as a
22 middleman to assist Plaintiff source PPE aid which Plaintiff then sold to
23 prospective buyers, Plaintiff, Defendants INOV8 and SAFDEYE became
24 agents of Plaintiff.

25 21. Although Defendant LINKER was not formally involved with Defendant
26 INOV8, Defendant LINKER remained involved in the sourcing of PPE aid for
27 Plaintiff. When PPE aid was obtained and purchased on behalf of Plaintiff,
28 Defendant LINKER would receive a direct payment from Plaintiff as a

commission fee. On information and belief, Plaintiff alleges that Defendant INOV8 also compensated Defendant LINKER for each order placed on behalf of Plaintiff.

B. Cintas Purchase Agreement

22. In approximately October of 2020, Cintas Corporation (hereinafter “Cintas”), a registered and active Ohio corporation, contacted Plaintiff to place an order for various PPE items in response to the ongoing Covid-19 pandemic, which had depleted manufacturers and suppliers worldwide of proper PPE to protect against the deadly Covid-19 virus.

23. Specifically, Cintas requested, among other PPE items, 100% nitrile disposable gloves.

24. On or about October 30, 2020, Plaintiff and Cintas executed a Purchase Agreement (hereinafter the “Cintas Purchase Agreement”) for the specific PPE requested. (Please refer to the Cintas Purchase Agreement dated October 30, 2020, attached hereto as **Exhibit A** and incorporated by reference as though set forth in full.)

25. Under the Cintas Purchase Agreement, Cintas was to purchase the following from Plaintiff:

A. Product: Powder Free, Disposable, Nitrile Gloves. Sizes: Small, Medium, Large, Extra Large.

B. Product: Powder Free, Disposable, Nitrile Examination Gloves. Sizes: Small, Medium, Large, Extra Large.

26. The price per box of 100 powder free, disposable, nitrile gloves was to be agreed upon per an accepted purchase order.

27. The Cintas Purchase Agreement further provides the following:

Purchase of Products and/or Services. From time-to-time during the term of this Agreement, Buyer may purchase the services and associated deliverables and/or products

1 as set forth on the attached Exhibit A and incorporated
2 herein by this reference (“Products and/or Services”) by
3 issuing to Seller a purchase order for such Products and/or
4 Services (“Purchase Order”) or by such other means as
5 described in Exhibit A. Exhibit A may be modified from
6 time-to-time to include additional Products and/or
7 Services or delete existing Products and/or Services;
8 provided, however, that all such modifications to the
9 Exhibit must be in writing and mutually agreed upon
10 between both parties.

11 28. With respect to the inspection and/or rejection of the products ordered, the
12 Cintas Purchase Agreement further provides the following:

13 Inspection and Rejection. Payment for the products
14 and/or services delivered hereunder shall not constitute
15 acceptance thereof. Buyer shall have the right to inspect
16 such products and to reject any or all of said products
17 which are, in the Buyer’s sole judgment, defective or
18 nonconforming with the product specifications outlined
19 in this Agreement, including without limitation, the
20 specifications set forth in Exhibit E. In such event, Buyer
21 shall notify Seller, and upon Seller’s receipt of such
22 notification, Seller shall promptly correct or replace any
23 defective or non-conforming Products or Services and the
24 cost of such correction or replacement, including
25 shipment, return and other administrative costs, shall be
26 borne by the Seller. In no event shall Seller have more
27 than ten (10) calendar days from receipt of Buyer’s notice
28 of the nonconformity to cure such nonconformity or to
replace the nonconforming Product or Service. Products
rejected and products supplied in excess of quantities
called for in the applicable Purchase Order may be
returned to Seller at Seller’s expense and, in addition to
Buyer’s other rights, Buyer may charge Seller all
expenses of unpacking, examining, repacking, and
reshipping such products. In the event Buyer receives
Products or Services whose defects or nonconformity is
not apparent on examination, Buyer reserves the right to
require replacement or repair, as well as setoff or payment

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of damages incurred by Buyer as a result of such defects or other nonconformance. Nothing contained in this Agreement or related Purchase Orders shall relieve in any way the Seller from the obligation of testing, inspecting and quality control. Additional specifications and instructions related to inspection and rejection may be included in Exhibit E.

29. In addition, with respect to Delivery and Shipment, the Cintas Purchase Agreement provides:

Delivery and Shipment. When Cintas is responsible for shipping charges, Delivery and Shipment terms for Products and/or Services shall be the most optimal methods as reasonably determined by Buyer's Transportation Department. In the event of any delay during delivery, Seller shall be responsible for all costs associated with such delay, including the costs of temporary storage, unloading, loading and rearranging of Products.

30. In furtherance of the Cintas Purchase Agreement, Plaintiff contacted Defendants SAFDYE and LINKER, by and through Defendant INOV8, in order to source suppliers of the 100% nitrile gloves requested in order for Plaintiff to fulfill the multiple purchase orders from Cintas.

31. Per standard procedure, Defendants SAFDEYE and LINKER, by and through Defendant INOV8, would obtain the specification sheet from each manufacturer of gloves sourced and would forward the specification sheet to Plaintiff, who would in turn forward it to Cintas for approval prior to finalizing the purchase.

C. PPE-Aid Sourced from Defendant World Tech Toys

32. Commencing in approximately November of 2020, Defendants SAFDEYE and LINKER, through Defendant INOV8, sourced products from various suppliers, including, among others, Defendant WORLD TECH TOYS, in order to assist

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- 1 Plaintiff in fulfilling several purchase orders from Cintas.
- 2 33. On or about November 24, 2020, Defendant LINKER informed Plaintiff that
- 3 Defendant WORLD TECH TOYS had 160,000 boxes of PPE-Aid nitrile
- 4 gloves available (hereinafter “PPE-Aid”) for a purchase price of \$14.85 per
- 5 box. In the same email, Defendant LINKER included a test report dated
- 6 September 25, 2019, that purported to be results of a test that had been
- 7 conducted to ascertain the exact composition of the PPE-Aid nitrile gloves
- 8 from Defendant WORLD TECH TOYS. (Please refer to the SGS Test Report
- 9 dated September 25, 2019, attached hereto as **Exhibit B** and incorporated by
- 10 reference as though set forth in full.)
- 11
- 12 34. On or about November 25, 2020, a representative of Defendant SAFDEYE
- 13 physically went to the warehouse where Defendant WORLD TECH TOYS’
- 14 gloves were stored and took photographs of each side of the box, as well as
- 15 photographs of the gloves themselves. Per procedure required by Cintas,
- 16 Defendant SAFDEYE forwarded the photographs to Plaintiff, who then
- 17 forwarded the photographs of the PPE-Aid boxes and gloves to Cintas. (Please
- 18 refer to the photographs of PPE-Aid, attached hereto as **Exhibit C** and
- 19 incorporated by reference as though set forth in full.)
- 20
- 21 35. The boxes of Defendant WORLD TECH TOYS’ PPE-Aid nitrile gloves
- 22 specifically stated: “nitrile gloves,” and were shipped in boxes containing
- 23 Defendant WORLD TECH TOYS’ company logo.
- 24
- 25 36. On or about November 25, 2020, Plaintiff additionally received and sent the
- 26 specification sheet for Defendant WORLD TECH TOYS’ PPE-Aid nitrile
- 27 gloves to Cintas and informed Cintas that the price per box would be
- 28 approximately \$17.40. (Please refer to the Specification Sheet, attached hereto
- as **Exhibit D** and incorporated by reference as though set forth in full.)
37. No issues were raised by Cintas regarding either the photographs of Defendant

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1 WORLD TECH TOYS' PPE-Aid nitrile gloves nor the specification sheet.
2
3 38. Accordingly, Cintas verbally approved Plaintiff's purchase of Defendant
4 WORLD TECH TOYS' PPE-Aid nitrile gloves.
5 39. Cintas subsequently sent Plaintiff five separate purchase orders, dated
6 December 2, 2020 (Cintas Purchase Order No. 3731435), December 2, 2020
7 (Cintas Purchase Order No. 3731460), December 7, 2020 (Cintas Purchase
8 Order No. 3736551), December 9, 2020 (Cintas Purchase Order No. 3739217),
9 and December 14, 2020 (Cintas Purchase Order No. 3743791), for a total of
10 160,000 boxes of Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves at
11 \$17.40 per box for a total sum of approximately \$2,790,960.00.
12 40. To effectuate the purchase of nitrile gloves from various manufacturers,
13 including but not limited to Defendant WORLD TECH TOYS, Defendants
14 SAFDYE and LINKER would first request Plaintiff submit payment to
15 Defendant INOV8 in order to secure each purchase sourced. On or about
16 November 24, 2020, Plaintiff received an invoice from Defendant INOV8 for
17 \$1,485,000.00, which Plaintiff submitted payment for upon receipt.
18 41. Cintas requested that the shipment of PPE-Aid nitrile gloves be delivered to
19 Crane Worldwide Logistics (hereinafter "Crane"), a logistics company located
20 in Compton, California.
21 42. After receiving the PPE-Aid nitrile gloves that Plaintiff obtained from
22 Defendant WORLD TECH TOYS, Cintas placed an additional order for
23 Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves.
24 43. In confirming that Defendant WORLD TECH TOYS possessed enough of the
25 PPE-Aid nitrile gloves to fulfill Cintas' order, Defendant LINKER informed
26 Plaintiff that Defendant WORLD TECH TOYS would require a 20% deposit
27 on 600,000 boxes of the PPE-Aid nitrile gloves, amounting to a total deposit in
28 the sum of approximately \$1,782,000.00, paid by Plaintiff to Defendant

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- 1 INOV8 on or about December 7, 2020.
- 2 44. In confirming that this order of PPE-Aid nitrile gloves was 100% nitrile to
- 3 meet the requirements under the Cintas Purchase Agreement, Defendant
- 4 SAFDYE informed Plaintiff that the vendor, Defendant WORLD TECH
- 5 TOYS, certified that the PPE-Aid nitrile gloves were 100% nitrile. (Please
- 6 refer to the email received by Plaintiff dated January 19, 2021, attached hereto
- 7 as **Exhibit E** and incorporated by reference as though set forth in full.)
- 8
- 9 45. To effectuate this additional order from Cintas for Defendant WORLD TECH
- 10 TOYS' PPE-Aid nitrile gloves, Plaintiff sent Defendant INOV8 \$1,095,397.90
- 11 on or about January 20, 2021.
- 12 46. Cintas subsequently committed to purchasing 600,000 boxes of Defendant
- 13 WORLD TECH TOYS' PPE-Aid nitrile gloves at \$17.40 per box in a sum of
- 14 approximately \$10,440,000.00 and would thereafter issue purchase orders.
- 15 These purchase orders included purchase orders, dated January 19, 2021
- 16 (Cintas Purchase Order No. 3777081), January 21, 2021 (Cintas Purchase
- 17 Order No. 3780549), January 21, 2021 (Cintas Purchase Order No. 3780559),
- 18 January 21, 2021 (Cintas Purchase Order No. 3780554), and February 9, 2021
- 19 (Cintas Purchase Order No. 3799637).
- 20 47. On or about January 29, 2021, Defendant WORLD TECH TOYS informed
- 21 Plaintiff that it was experiencing delays with the inbound shipment of the PPE-
- 22 Aid nitrile gloves. After follow-up communications from both Plaintiff and
- 23 Cintas, Defendant WORLD TECH TOYS informed both parties on or about
- 24 February 2, 2021, that Defendant WORLD TECH TOYS did not have any
- 25 PPE-Aid nitrile gloves available and expected to have freight available by
- 26 February 4, 2021.
- 27
- 28 48. After receiving approximately 145,210 boxes of Defendant WORLD TECH
- TOYS' PPE-Aid nitrile gloves, Plaintiff received a call from Cintas informing

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1 Plaintiff that the PPE-Aid nitrile gloves were not 100% nitrile, and that Cintas
2 would be placing stops on all pick-ups for the PPE-Aid nitrile gloves from
3 Defendant WORLD TECH TOYS.

4 49. In asserting that Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves
5 were not 100% nitrile, Cintas informed Plaintiff that the PPE-Aid nitrile gloves
6 were a blended composition, ascertained allegedly by the look and feel of the
7 glove.
8

9 50. On or about February 22, 2021, Plaintiff received an additional specification
10 sheet from Defendant SAFDEYE for Defendant WORLD TECH TOYS' PPE-
11 Aid nitrile gloves. (Please refer to the PPE-Aid Nitrile Gloves Specification
12 Sheet, attached hereto as **Exhibit F** and incorporated by reference as though
13 set forth in full.)

14 51. The additional specification sheet identified Defendant WORLD TECH
15 TOYS' PPE-Aid nitrile gloves as nitrile, FDA approved, and exam grade, and
16 further included a test report dated October 6, 2020, describing the PPE-Aid
17 nitrile gloves as "nitrile."

18 52. Defendant LINKER additionally sent Plaintiff a Bill of Lading from Feida
19 Toys Co., Ltd., purportedly from Defendant WORLD TECH TOYS,
20 concurrent with a text message that stated none of the PPE-Aid nitrile gloves
21 were fake, "no one did anything wrong," "no one scammed us," and that the
22 attached Bill of Lading proved that the PPE-Aid nitrile gloves were real.

23 53. On or about February 24, 2021, Plaintiff received an email from Cintas
24 confirming that all pending orders of Defendant WORLD TECH TOYS' PPE-
25 Aid nitrile gloves were cancelled.
26

27 54. Cintas additionally requested to be credited for all of Defendant WORLD
28 TECH TOYS' PPE-Aid nitrile gloves that Cintas was returning and informed
Plaintiff that Cintas would not pay any outstanding invoices until all credits

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1 were issued for the non-conforming PPE-Aid nitrile gloves.
2
3 55. Cintas thereafter returned all of Defendant WORLD TECH TOYS' PPE-Aid
4 nitrile gloves that were shipped in January and February of 2021, plus an
5 additional 7,594 boxes of the first purchase order made on or about December
6 2, 2020, amounting to a total of 151,654 boxes returned to Plaintiff and a loss
7 sustained by Plaintiff at a sum of \$2,252,061.90, calculated by 151,654 boxes
8 at Plaintiff's purchase price of \$14.85 per box.
9 56. When Plaintiff requested that Cintas test Defendant WORLD TECH TOYS'
10 PPE-Aid nitrile gloves, Plaintiff was informed by Cintas that if Plaintiff
11 wanted the gloves tested, Plaintiff would be required to test the gloves.
12 57. When Plaintiff requested that Defendant INOV8 return all money paid by
13 Plaintiff for all outstanding orders of Defendant WORLD TECH TOYS' PPE-
14 Aid nitrile gloves that had not yet been delivered to Cintas, Defendant
15 SAFDEYE informed Plaintiff that he had already transferred the funds to
16 Defendant WORLD TECH TOYS and that Defendant WORLD TECH TOYS
17 would not refund. Defendant SAFDEYE stated that Defendant WORLD
18 TECH TOYS owed money to the bank and that the bank would take
19 possession of the PPE-Aid gloves if Plaintiff did not. Accordingly, Plaintiff
20 was left with no choice but to have the outstanding orders shipped directly to
21 Plaintiff's warehouse. The sum paid to Defendant INOV8 for these outstanding
22 shipments was approximately \$3,154,140.00, calculated by 212,400 boxes of
23 PPE-Aid nitrile gloves at Plaintiff's purchase price of \$14.85 per box.
24 58. Defendants SAFDEYE and LINKER subsequently sent Plaintiff a Settlement
25 Agreement and Release (hereinafter the "Settlement Agreement") to be
26 executed between Plaintiff and Defendant INOV8.
27 59. The Settlement Agreement, dated March 4, 2021, purported to release
28 Defendant INOV8 from any liabilities relating to certain non-conforming

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1 products that Defendant INOV8 purchased on behalf of Plaintiff. (Please refer
2 to the Settlement Agreement, attached hereto as **Exhibit H** and incorporated
3 by reference as though set forth in full.)

4 60. Specifically, the Settlement Agreement provided that Plaintiff would not be
5 required to take delivery on product ordered from Defendant INOV8, and
6 further, that Plaintiff acknowledged that Defendant INOV8 was required to
7 deposit funds toward certain orders and that *if* Defendant INOV8 was able to
8 recover any sum of the deposits paid, Defendant INOV8 would return the
9 funds to Plaintiff.

10 61. The Settlement Agreement specified that Defendant INOV8 had paid a total
11 deposit amount of approximately \$1,665,725.00, however, the Settlement
12 Agreement did not mandate that Defendant INOV8 return any funds to
13 Plaintiff unless such funds were recovered by Defendant INOV8.

14 62. Defendants SAFDEYE and LINKER induced Plaintiff's execution of the
15 Settlement Agreement by informing Plaintiff that Defendant INOV8 would
16 recover Plaintiff's funds and further, that a third party would purchase the non-
17 conforming goods but could not prior to execution of the Settlement
18 Agreement.

19 63. Defendant LINKER further induced Plaintiff's execution of the Settlement
20 Agreement by informing Plaintiff that if Plaintiff did not sign, Plaintiff would
21 lose the Shoe Show business. Despite the fact that Plaintiff did sign the
22 Settlement Agreement, Defendant LINKER, on information and belief,
23 subsequently transferred the entire Shoe Show business into Defendant
24 SAFDEYE's other company, Majesty Brands, without Plaintiff's knowledge or
25 authorization, resulting in Plaintiff losing the Shoe Show business. Plaintiff
26 possessed approximately \$3,000,000.00 in inventory that was subsequently
27 transferred to Majesty Brands.
28

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1 64. On or about March 10, 2021, Defendant LINKER sent Plaintiff a letter from
2 the United States Food & Drug Administration (“FDA”) dated November 30,
3 2018, that purportedly identified Hongray USA Medical Products, Inc.
4 (hereinafter “Hongray”) as the manufacturer of Defendant WORLD TECH
5 TOYS’ PPE-Aid nitrile gloves.

6 65. On or about March 19, 2021, a representative on behalf of Plaintiff contacted
7 Hongray, requesting confirmation that the brand PPE-Aid was comprised of
8 100% nitrile. Plaintiff received a response from Hongray the same day stating
9 that the PPE-Aid brand was not manufactured by Hongray and that it was
10 counterfeit.

11 66. After submitting Defendant WORLD TECH TOYS’ PPE-Aid nitrile gloves for
12 testing, Plaintiff received a Chemical Test Report from Applied Technical
13 Services dated May 27, 2021, concluding that the PPE-Aid nitrile gloves were
14 comprised of phthalate plasticized PVC and were not nitrile. (Please refer to
15 the Chemical Test Report dated May 27, 2021, attached hereto as **Exhibit G**
16 and incorporated by reference as though set forth in full.)

17 67. In October of 2021, Plaintiff requested that Phenix Investigations, Inc.
18 (hereinafter “Phenix”) perform an investigation into Defendant WORLD
19 TECH TOYS. On or about October 8, 2021, Plaintiff received the full asset
20 investigation report on Defendant WORLD TECH TOYS and its owner, Kev
21 Kouyoumijan, from Phenix. The investigation report identified that Mr.
22 Kouyoumijan and his family own approximately \$16,000,000.00 in property
23 assets and entities controlled by family members, including Mr. Kouyoumijan.
24 The investigation report further identified that two entities controlled by Mr.
25 Kouyoumijan own private jets. These findings were entirely contradictory to
26 Defendant SAFDEYE’s representation that Defendant WORLD TECH TOYS
27 owed money to the bank and therefore, Plaintiff was required to maintain
28

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- 1 possession of the gloves. On information and belief, Plaintiff alleges that
2 Defendant SAFDEYE made this representation knowingly and fraudulently
3 with the specific intent to induce Plaintiff into accepting possession of the non-
4 conforming PPE-Aid nitrile gloves that Cintas would not accept.
- 5 68. On or about November 15, 2021, Plaintiff contacted Mr. Kouyoumijan,
6 informing Mr. Kouyoumijan of the test results Plaintiff had received regarding
7 the PPE-Aid nitrile gloves. In response, Mr. Kouyoumijan requested that
8 Plaintiff forward the specification sheet received from Defendant SAFDEYE.
9 In a telephone conversation between Plaintiff and Mr. Kouyoumijan shortly
10 thereafter, Mr. Kouyoumijan informed Plaintiff that Defendant SAFDEYE was
11 aware that the PPE-Aid nitrile gloves were not 100% nitrile.
- 12 69. At all times, Defendant WORLD TECH TOYS marketed its PPE-Aid nitrile
13 gloves as 100% nitrile.
- 14 70. At all times, Defendants SAFDEYE and LINKER represented to Plaintiff that
15 Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves were 100% nitrile.
- 16 71. Defendant WORLD TECH TOYS represented to Plaintiff that the PPE-Aid
17 nitrile gloves were comprised of 100% nitrile, when in fact, they were
18 comprised of phthalate plasticized PVC.
- 19 72. Defendants SAFDEYE and LINKER represented to Plaintiff that the PPE-Aid
20 nitrile gloves were comprised of 100% nitrile, thereby inducing Plaintiff to
21 purchase large quantities of the PPE-Aid nitrile gloves, which led to profits for
22 Defendant INOV8.
- 23 73. On information and belief, Plaintiff alleges that at all times, Defendants
24 SAFDEYE and LINKER were aware that the PPE-Aid nitrile gloves were not
25 100% nitrile.
- 26 74. At all times, Defendants SAFDEYE and LINKER were aware of Plaintiff's
27 obligations under the Cintas Purchase Agreement. Specifically, Defendants
28

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1 SAFDEYE and LINKER were aware of Plaintiff's obligation to provide gloves
2 comprised of 100% nitrile to Cintas.

3 75. Defendants SAFDEYE and LINKER were aware of Plaintiff's obligation to
4 provide gloves comprised of 100% nitrile to Cintas because on several
5 occasions when either Defendant SAFDEYE or Defendant LINKER apprised
6 Plaintiff of available product, Plaintiff expressly inquired as to whether the
7 product was 100% nitrile.

8 76. Defendants SAFDEYE and LINKER were aware that per the Cintas Purchase
9 Order, the PPE-Aid nitrile gloves sold by Defendant WORLD TECH TOYS
10 were required to be comprised of 100% nitrile.

11
12 **D. Damages Against Defendant World Tech Toys Incurred as a**
13 **Result of the Non-Conforming Goods**

14 77. As a result of the fact that Defendant WORLD TECH TOYS' PPE-Aid nitrile
15 gloves were not comprised of 100% nitrile, as marketed and as represented to
16 Plaintiff, Plaintiff was required to accept returns of the non-conforming PPE-
17 Aid nitrile gloves from Cintas and issue credits and refunds to Cintas.

18 78. On Plaintiff's Invoice No. 21942 to Cintas, dated December 2, 2020 and
19 corresponding with Cintas Purchase Order No. 3731435, Plaintiff was required
20 to accept a return of 7,594 boxes of the PPE-Aid nitrile gloves at Plaintiff's
21 purchase price of \$14.85 per box, sustaining an actual loss of approximately
22 \$112,770.90.

23 79. On Plaintiff's Invoice No. 2806 to Cintas, dated January 21, 2021 and
24 corresponding with Cintas Purchase Order No. 3777081, Plaintiff was required
25 to accept a return of 29,200 boxes of the PPE-Aid nitrile gloves at Plaintiff's
26 purchase price of \$14.85 per box, sustaining an actual loss of approximately
27 \$433,620.00.
28

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1 80. On Plaintiff's Invoice No. 2808 to Cintas, dated January 22, 2021 and
2 corresponding with Cintas Purchase Order No. 3780549, Plaintiff was required
3 to accept a return of 27,880 boxes of the PPE-Aid nitrile gloves at Plaintiff's
4 purchase price of \$14.85 per box, sustaining an actual loss of approximately
5 \$414,018.00.

6 81. On Plaintiff's Invoice No. 2809 to Cintas, dated January 26, 2021 and
7 corresponding with Cintas Purchase Order No. 3780554, Plaintiff was required
8 to accept a return of 28,970 boxes of the PPE-Aid nitrile gloves at Plaintiff's
9 purchase price of \$14.85 per box, sustaining an actual loss of approximately
10 \$430,204.50.

11 82. On Plaintiff's Invoice No. 2810 to Cintas, dated January 26, 2021 and
12 corresponding with Cintas Purchase Order No. 3780559, Plaintiff was required
13 to accept a return of 29,000 boxes of the PPE-Aid nitrile gloves at Plaintiff's
14 purchase price of \$14.85 per box, sustaining an actual loss of approximately
15 \$430,650.00.

16 83. On Plaintiff's Invoice No. 2831 to Cintas, dated February 4, 2021 and
17 corresponding with Cintas Purchase Order No. 3799637, Plaintiff was required
18 to accept a return of 29,010 boxes of the PPE-Aid nitrile gloves at Plaintiff's
19 purchase price of \$14.85 per box, sustaining an actual loss of approximately
20 \$430,798.50.

21 84. In total, Plaintiff sustained actual losses in a sum of approximately
22 \$2,252,061.90, calculated by a total of 151,654 boxes at Plaintiff's purchase
23 price of \$14.85 per box, for Cintas' return of the non-conforming PPE-Aid
24 nitrile gloves alone.

25 85. Plaintiff additionally sustained actual losses in a sum of approximately
26 \$3,154,140.00 paid to Defendant INOV8 for Defendant WORLD TECH
27 TOYS' PPE-Aid nitrile gloves that Defendant SAFDEYE forced Plaintiff to
28

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- 1 accept and store, calculated by a total of 212,400 boxes at Plaintiff's purchase
2 price of \$14.85 per box.
- 3 86. Plaintiff's actual losses for the non-conforming PPE-Aid nitrile gloves
4 amounts to a sum of approximately \$5,406,201.90.
- 5 87. As Plaintiff sold the PPE-Aid nitrile gloves to Cintas at a price point of \$17.40
6 per box, Plaintiff sustained lost profits in a sum of approximately \$928,337.70,
7 calculated by a total of 364,054 boxes sold to Cintas at a purchase price of
8 \$17.40 per box (\$6,334,539.60) and purchased by Plaintiff at a purchase price
9 of \$14.85 per box (\$5,406,201.90).
- 10 88. Cintas additionally cancelled an outstanding purchase order for 235,946 boxes
11 of Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves, amounting to
12 lost profits sustained by Plaintiff in a sum of approximately \$601,622.30,
13 calculated by a profit to Plaintiff at \$2.55 per box.
- 14 89. Plaintiff was further required to incur an interest rate at 4.5% on 364,054 boxes
15 of Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves, purchased for
16 \$14.85 per box and for which Plaintiff was required to borrow money in an
17 approximate sum of \$5,406,201.90. At a 4.5% interest rate, this amounted to
18 \$666.52 per day. From the period of December of 2020 through December of
19 2023, Plaintiff has therefore incurred losses in a sum of approximately
20 \$445,901.88 on interest due.
- 21 90. Plaintiff was additionally required to pay freight charges for shipping. From
22 the period of March of 2021 through April of 2021, Plaintiff paid
23 approximately \$48,281.05 on freight from Defendant WORLD TECH TOYS'
24 PPE-Aid nitrile gloves to Plaintiff's warehouse in Fort Payne, Alabama. When
25 Cintas returned the PPE-Aid nitrile gloves, Plaintiff was forced to incur an
26 additional \$38,320.00 in return freight charges, amounting to a total loss of
27 approximately \$86,601.05 in shipping alone.
- 28

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1 91. Plaintiff has further sustained storage costs. From the period of approximately
2 March of 2021 to September of 2022, Plaintiff paid for storage of 183 skids at
3 a rate of \$2.75 per week per skid, amounting to an initial storage cost of
4 approximately \$20,083.25. When Cintas returned the PPE-Aid nitrile gloves,
5 Plaintiff was forced to incur additional storage costs for the returned non-
6 conforming goods at Crane's warehouse, amounting to storage costs in a sum
7 of approximately \$21,553.00. In approximately March of 2021, the non-
8 conforming PPE-Aid nitrile gloves were re-located to Plaintiff's warehouse,
9 where Plaintiff incurred additional storage costs at \$2.75 per week per skid for
10 approximately eighty-two weeks through September of 2022, thereby
11 amounting to storage costs in a sum of approximately \$44,286.00. From the
12 period of approximately October of 2021 through July of 2022, Plaintiff
13 incurred additional storage costs on PPE-Aid nitrile gloves returned from
14 Cintas and stored at Colortrim Plastics, LLC in the sum of approximately
15 \$23,750.00. In total, Plaintiff has incurred a loss of approximately \$89,589.00
16 in storage costs alone.
17

18 92. From the period of approximately May of 2021 to September of 2023, Plaintiff
19 has been required to pay liability insurance on Defendant WORLD TECH
20 TOYS' non-conforming PPE-Aid nitrile gloves, amounting to a sum of
21 approximately \$23,931.00.
22

23 93. As a result of Defendant WORLD TECH TOYS' fraudulent
24 misrepresentations and false advertising, Plaintiff has incurred actual damages
25 in a sum no less than approximately \$7,689,846.75.
26

27 94. As the Covid-19 pandemic has slowed since 2020, the need for immediate PPE
28 equipment, such as Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves
has decreased, and therefore Plaintiff has been left to warehouse and stock
gloves comprised of phthalate plasticized PVC that has significantly decreased

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1 in value.

2 95. Through Defendant INOV8, Plaintiff purchased the PPE-Aid nitrile gloves
3 from Defendant WORLD TECH TOYS at a price point of approximately
4 \$14.85 per box.

5 96. Plaintiff sold Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves to
6 Cintas at a price point of approximately \$17.40 per box, thereby profiting
7 approximately \$2.55 per box.

8 97. To date, the current price point for which Plaintiff has been offered on other
9 conforming goods that were not sold by Defendant WORLD TECH TOYS is
10 approximately \$3.50 per box, evidencing the drastic decline in supply and
11 demand for PPE equipment since the height of the Covid-19 pandemic.

12 98. Accordingly, Plaintiff seeks compensatory and punitive damages for the losses
13 Plaintiff has been forced to incur as a result of the fraudulent conduct of
14 Defendant WORLD TECH TOYS.

15
16 **E. Damages Against Defendants INOV8, Safdeye, and Linker**
17 **Incurred as a Result of the Non-Conforming Goods**
18

19 99. As Defendants SAFDYE and LINKER sourced several various suppliers of the
20 100% nitrile gloves requested in order for Plaintiff to fulfill the multiple
21 purchase orders from Cintas, the common practice of Defendants SAFDEYE
22 and LINKER, by and through Defendant INOV8, was to source gloves,
23 ascertain the number of boxes available from each supplier, and subsequently
24 instruct Plaintiff to wire funds directly to Defendant INOV8 in order for
25 Plaintiff to purchase the gloves.

26 100. This disorganized practice, as well as the heightened supply and demand at
27 the time, resulted in a fast-paced business structure wherein time was of the
28 essence, and upon sourcing gloves from a supplier, Defendants SAFDEYE and

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- 1 LINKER would request funds to be wired immediately.
- 2 101. In total, Plaintiff compensated Defendant INOV8 approximately
- 3 \$3,883,965.50, fulfilling Defendant INOV8's Invoice Nos. 1017 dated January
- 4 20, 2021, 1019 dated January 25, 2021, 1021 dated January 25, 2021, 1022
- 5 dated February 1, 2021, and 1019 dated February 16, 2021.
- 6 102. Although Defendant INOV8 returned to Plaintiff the \$3,154,140.00 for
- 7 Plaintiff's purchase of 600,000 boxes of Defendant WORLD TECH TOYS'
- 8 PPE-Aid nitrile gloves that Plaintiff was forced to possess and store, as well as
- 9 an additional \$318,417.50 for non-conforming goods from another supplier,
- 10 Defendant INOV8 owed Plaintiff approximately \$96,982.50 for shortages on
- 11 Defendant INOV8's Invoice Nos. 1019, 1015, 1015, and 1016, amounting to a
- 12 total owed to Plaintiff in the sum of approximately \$508,390.50 on the total
- 13 \$3,883,965.50 Plaintiff paid to Defendant INOV8 after accounting for the
- 14 monies returned.
- 15 103. On or about February 19, 2021, Defendant SAFDEYE returned an
- 16 additional \$250,000 to Plaintiff, rendering the outstanding sum owed to
- 17 Plaintiff approximately \$258,390.50.
- 18 104. When Plaintiff inquired as to when Plaintiff could expect to receive the
- 19 remaining \$258,390.50, Defendant SAFDEYE informed Plaintiff that he had,
- 20 without Plaintiff's knowledge or authorization, sent the remaining outstanding
- 21 balance to Defendant WORLD TECH TOYS for a deposit on 300,000 boxes of
- 22 the PPE-Aid nitrile gloves.
- 23 105. At no time did Plaintiff instruct Defendant SAFDEYE or Defendant
- 24 LINKER to continue ordering the non-conforming PPE-Aid nitrile gloves from
- 25 Defendant WORLD TECH TOYS, especially after sustaining massive
- 26 financial losses in the return of the PPE-Aid nitrile gloves from Cintas.
- 27 106. On information and belief, Plaintiff alleges that Defendant SAFDEYE
- 28

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misrepresented the true circumstances of the outstanding balance owed to Plaintiff in the sum of approximately \$258,390.50 and intends to withhold those funds from Plaintiff by leading Plaintiff to believe that Defendants INOV8, SAFDEYE, and LINKER no longer possess the funds.

107. Accordingly, Plaintiff seeks compensatory and punitive damages for the losses Plaintiff has been forced to incur as a result of the fraudulent conduct of Defendants INOV8, SAFDEYE, and LINKER.

FIRST CAUSE OF ACTION

BREACH OF CONTRACT

(Against Defendant WORLD TECH TOYS)

108. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

109. To recover damages from Defendant for breach of contract, Plaintiff must prove the following: (1) Plaintiff and Defendant entered into a contract, (2) Plaintiff completed all, or substantially all, of the material terms that the contract required Plaintiff to do, (3) Plaintiff was harmed, and (4) Defendant's breach of contract was a substantial factor in causing Plaintiff's harm.

110. A contract for sale of goods may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of such a contract. (Cal. Com. Code § 2204.)

111. An agreement sufficient to constitute a contract for sale may be found even though the moment of its making is undetermined. (*Id.*)

112. Even though one or more terms are left open a contract for sale does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy. (*Id.*)

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1 113. A contract, made expressly for the benefit of a third person, may be
2 enforced by him at any time before the parties thereto rescind it. (Cal. Civ.
3 Code § 1559.)

4 114. It is not required that the third-party beneficiary specifically be named as a
5 beneficiary in the contract. (*Martinez v. Socoma Companies, Inc.* (1974) 11
6 Cal.3d 394, 408.)

7 115. Where a contract is made directly, or explicitly, for a third party, the third
8 party is an express beneficiary to the contract entered into. (*Id.*)

9 116. A third-party beneficiary contract must either satisfy an obligation of the
10 promisee to pay money to the beneficiary, or the circumstances must indicate
11 the promisee intends to provide the beneficiary the benefit of the promised
12 performance. (*Medical Staff of Doctors Medical Center in Modesto v. Kamil*
13 (2005) 132 Cal.App.4th 679, 685.)

14 117. Commencing in approximately November of 2020, Defendant INOV8,
15 acting as Plaintiff's agent, sourced PPE-Aid nitrile gloves from Defendant
16 WORLD TECH TOYS for the sole purpose for Plaintiff to purchase gloves
17 comprised of 100% nitrile.

18 118. After receiving Defendant WORLD TECH TOYS' specification sheet for
19 the PPE-Aid nitrile gloves and inspecting the PPE-Aid nitrile gloves in
20 November of 2020, Plaintiff, through Defendant INOV8, placed an order with
21 Defendant WORLD TECH TOYS for 160,000 boxes of the PPE-Aid nitrile
22 gloves. Defendant accepted the order, thereby manifesting assent to enter into a
23 contract wherein Plaintiff was a third-party beneficiary to the relationship
24 between Defendant WORLD TECH TOYS and Defendant INOV8.

25 119. The terms of this agreement obligated Defendant WORLD TECH TOYS to
26 provide Plaintiff with 100% nitrile gloves, as represented and as marketed on
27 both Defendant WORLD TECH TOYS' boxes and specification sheet.
28

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120. In consideration, Plaintiff, through Defendant INOV8, compensated Defendant WORLD TECH TOYS an approximate sum of \$2,374,663.50.

121. After receiving the first shipment from Defendant WORLD TECH TOYS, Plaintiff, through Defendant INOV8, placed a second order for 600,000 boxes of Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves in January of 2019.

122. In confirming that the second order of PPE-Aid nitrile gloves were comprised of 100% nitrile, Defendant WORLD TECH TOYS represented to Defendant INOV8 that the PPE-Aid nitrile gloves were 100% nitrile.

123. In consideration for the second order, Plaintiff, through Defendant INOV8, compensated Defendant WORLD TECH TOYS an approximate sum of \$5,293,431.00, in addition to providing a 20% deposit as requested by Defendant WORLD TECH TOYS.

124. Defendant WORLD TECH TOYS materially breached the agreement because the PPE-Aid nitrile gloves were not 100% per nitrile, but rather, were comprised of phthalate plasticized PVC.

125. Defendant WORLD TECH TOYS misrepresented to Plaintiff the true composition of the PPE-Aid nitrile gloves for purchase by advertising the PPE-Aid nitrile gloves as nitrile and by providing specification sheets that identified the PPE-Aid nitrile gloves to be comprised of nitrile.

126. Plaintiff performed all conditions and obligations under the agreement by compensating Defendant WORLD TECH TOYS, through Defendant INOV8, a total sum of approximately \$5,406,201.90.

127. Defendant WORLD TECH TOYS' breach of the agreement was a substantial, if not the only, factor in causing Plaintiff's harm, because Plaintiff had requested product comprised of 100% nitrile and Defendant WORLD TECH TOYS failed to meet its obligations. When it was discovered that the

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1 PPE-Aid nitrile gloves purchased from Defendant WORLD TECH TOYS were
2 not comprised of 100% nitrile, Plaintiff sustained massive financial losses as a
3 result of returns of the non-conforming product, interest rate on the non-
4 conforming product that Plaintiff could no longer sell, shipping costs, and costs
5 of storage to warehouse the non-conforming product that Plaintiff could no
6 longer sell.

7
8 128. As a further direct and proximate result of Defendant WORLD TECH
9 TOYS' breach of the agreement, Plaintiff incurred potential liability as
10 Defendant WORLD TECH TOYS' material breach rendered Plaintiff in breach
11 of the Cintas Purchase Agreement, as Plaintiff had failed to provide gloves
12 comprised of 100% nitrile as obligated.

13 129. As a result of Defendant WORLD TECH TOYS' material breach, Plaintiff
14 has been damaged in a sum according to proof, but in no event less than the
15 jurisdictional minimum of this Court.

16
17 **SECOND CAUSE OF ACTION**

18 **BREACH OF IMPLIED CONTRACT**

19 **(Against Defendants INOV8, SAFDEYE, and LINKER)**

20 130. Plaintiff hereby incorporates by reference each and all of the allegations
21 contained in all paragraphs of this Complaint as though fully set forth within
22 this Cause of Action.

23 131. To recover damages from Defendant for breach of contract, Plaintiff must
24 prove the following: (1) Plaintiff and Defendant entered into a contract, (2)
25 Plaintiff completed all, or substantially all, of the material terms that the
26 contract required Plaintiff to do, (3) Plaintiff was harmed, and (4) Defendant's
27 breach of contract was a substantial factor in causing Plaintiff's harm.

28 132. The existence of an implied contract is manifested by conduct: the

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1 difference lies not in legal effect, but merely in the mode of manifesting assent.
2 (*Green Valley Landowners Assn. v. City of Vallejo* (2015) Cal.App.4th 425,
3 433.)

4 133. Commencing in approximately November of 2020, Plaintiff entered into an
5 agreement with Defendant INOV8, acting as Plaintiff's agent. The terms of
6 this agreement obligated Defendant INOV8 to source gloves comprised of
7 100% nitrile for Plaintiff.
8

9 134. In exchange, Plaintiff compensated Defendant INOV8 for purchase of the
10 product sourced, as well as providing compensation to Defendant LINKER as
11 a commission fee.

12 135. Per this agreement, Defendant INOV8 sourced PPE-Aid nitrile gloves from
13 Defendant WORLD TECH TOYS.

14 136. On or about November 24, 2020, Defendant LINKER informed Plaintiff
15 that Defendant WORLD TECH TOYS had 160,000 boxes of PPE-Aid nitrile
16 gloves available. In the same email, Defendant LINKER included a test report
17 dated September 25, 2019, that purported to be results of a test that had been
18 conducted to ascertain the exact composition of the PPE-Aid nitrile gloves
19 from Defendant WORLD TECH TOYS. Accordingly, Plaintiff, through
20 Defendant INOV8, placed an order for the PPE-Aid nitrile gloves.

21 137. To effectuate this order for Defendant WORLD TECH TOYS' PPE-Aid
22 nitrile gloves, Plaintiff received an invoice from Defendant INOV8 on or about
23 November 24, 2020 for a total balance of \$1,485,000.00, which Plaintiff
24 submitted payment for upon receipt.

25 138. After receiving the first shipment from Defendant WORLD TECH TOYS,
26 Plaintiff, through Defendant INOV8, placed a second order for 600,000 boxes
27 of Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves in January of
28 2019.

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1 139. In confirming that Defendant WORLD TECH TOYS possessed enough of
2 the PPE-Aid nitrile gloves to fulfill Plaintiff's order, Defendant LINKER
3 informed Plaintiff that Defendant WORLD TECH TOYS would require a 20%
4 deposit on 600,000 boxes of the PPE-Aid nitrile gloves, amounting to a total
5 deposit in the sum of approximately \$1,782,000.00, paid by Plaintiff to
6 Defendant INOV8.

7
8 140. In confirming that this order of PPE-Aid nitrile gloves was 100% nitrile,
9 Defendant SAFDYE informed Plaintiff that the vendor, Defendant WORLD
10 TECH TOYS, certified that the PPE-Aid nitrile gloves were 100% nitrile.

11 141. To effectuate this additional order from Cintas for Defendant WORLD
12 TECH TOYS' PPE-Aid nitrile gloves, Plaintiff sent Defendant INOV8
13 \$1,095,397.90 on or about January 20, 2021.

14 142. Per the agreement with Plaintiff, Defendants INOV8, SAFDEYE, and
15 LINKER were obligated to source and provide Plaintiff with gloves comprised
16 of 100% nitrile.

17 143. Defendants INOV8, SAFDEYE, and LINKER materially breached the
18 agreement because the PPE-Aid nitrile gloves sourced from Defendant
19 WORLD TECH TOYS were not 100% nitrile, but rather, were comprised of
20 phthalate plasticized PVC.

21 144. Plaintiff performed all conditions and obligations under the agreement by
22 compensating Defendant INOV8 a total sum of approximately \$5,406,201.90.

23 145. The breach of the agreement by Defendants INOV8, SAFDEYE, and
24 LINKER was a substantial, if not the only, factor in causing Plaintiff's harm,
25 because Plaintiff had requested that Defendants INOV8, SAFDEYE, and
26 LINKER source and provide Plaintiff with product comprised of 100% nitrile
27 and subsequently failed to do so. When it was discovered that the PPE-Aid
28 nitrile gloves purchased from Defendant WORLD TECH TOYS and sourced

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by Defendants INOV8, SAFDEYE, and LINKER were not comprised of 100% nitrile, Plaintiff sustained massive financial losses as a result of returns of the non-conforming product, interest rate on the non-conforming product that Plaintiff could no longer sell, shipping costs, and costs of storage to warehouse the non-conforming product that Plaintiff could no longer sell.

146. As a further direct and proximate result of the breach of the agreement by Defendants INOV8, SAFDEYE, and LINKER, Plaintiff incurred potential liability as the material breach rendered Plaintiff in breach of the Cintas Purchase Agreement, as Plaintiff had failed to provide gloves comprised of 100% nitrile as obligated.

147. As a result of the material breach by Defendants INOV8, SAFDEYE, and LINKER, Plaintiff has been damaged in a sum according to proof, but in no event less than the jurisdictional minimum of this Court.

THIRD CAUSE OF ACTION

BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING (Against Defendant WORLD TECH TOYS)

148. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

149. “The covenant of good faith and fair dealing, implied by law in every contract, exists merely to prevent one contracting party from unfairly frustrating the other party’s right to receive the benefits of the agreement actually made.” (*Guz v. Bechtel Nat. Inc.* (2000) 24 Cal.4th 317, 349.)

150. The covenant imposes on contracting parties the duty to refrain from doing anything that would render performance of the contract impossible, while additionally imposing the duty to do everything that the party presupposes each

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1 party will do to accomplish its purpose. (*Lueras v. BAC Home Loans*
2 *Servicing, LP* (2013) 221 Cal.App.4th 49.)

3 151. Defendant WORLD TECH TOYS engaged in a conduct which frustrated
4 Plaintiff's rights to the benefit of the contract by falsely and fraudulently
5 representing to Plaintiff that the PPE-Aid nitrile gloves were comprised of
6 100% nitrile.

7
8 152. When Plaintiff, through Defendant INOV8, first contacted Defendant
9 WORLD TECH TOYS in approximately November of 2020, Defendant
10 WORLD TECH TOYS provided Plaintiff with a test report dated September
11 25, 2019 that purported to be results of a test that had been conducted to
12 ascertain the exact composition of the PPE-Aid nitrile gloves.

13 153. The boxes of Defendant WORLD TECH TOYS' PPE-Aid gloves
14 specifically stated: "nitrile gloves," and were shipped in boxes containing
15 Defendant WORLD TECH TOYS' company logo.

16 154. On information and belief, Defendant WORLD TECH TOYS specifically
17 represented to Plaintiff, through Defendant SAFDEYE that the PPE-Aid nitrile
18 gloves were 100% nitrile.

19 155. Defendant WORLD TECH TOYS further provided Plaintiff with an
20 additional specification sheet that identified the PPE-Aid nitrile gloves as
21 nitrile, FDA approved, and exam grade, and included a test report dated
22 October 6, 2020 describing the PPE-Aid nitrile gloves as "nitrile."

23 156. The agreement between Plaintiff and Defendant WORLD TECH TOYS
24 obligated Defendant WORLD TECH TOYS to provide gloves comprised of
25 100% nitrile.

26
27 157. As Defendant WORLD TECH TOYS was the supplier of the PPE-Aid
28 nitrile gloves and specifically marketed the PPE-Aid gloves with Defendant
WORLD TECH TOYS' logo, Defendant WORLD TECH TOYS knew or

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1 should have known that the PPE-Aid nitrile gloves were not 100% nitrile, but
2 rather, were comprised of phthalate plasticized PVC.

3 158. By representing and marketing the PPE-Aid nitrile gloves as 100% nitrile,
4 Defendant WORLD TECH TOYS rendered performance of the agreement
5 impossible, as Defendant WORLD TECH TOYS could not provide Plaintiff
6 with gloves comprised of 100% nitrile.

7
8 159. By representing and marketing the PPE-Aid nitrile gloves as 100% nitrile,
9 Defendant WORLD TECH TOYS acted in bad faith and in violation of the
10 implied covenant of good faith and fair dealing.

11 160. Defendant WORLD TECH TOYS' breach of the implied covenant of good
12 faith and fair dealing was a substantial, if not the only, factor in causing
13 Plaintiff's harm. When it was discovered that the PPE-Aid nitrile gloves were
14 not comprised of 100% nitrile, Plaintiff sustained massive financial losses as a
15 result of returns of the non-conforming product, interest rate on the non-
16 conforming product that Plaintiff could no longer sell, shipping costs, and costs
17 of storage to warehouse the non-conforming product that Plaintiff could no
18 longer sell.

19 161. The acts and conduct of Defendant constitute "malice" as defined in Cal.
20 Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendant to cause
21 injury to Plaintiff or was despicable conduct which was carried on by
22 Defendant with a willful and conscious disregard of the rights or safety of
23 Plaintiff. The acts of Defendant were conducted fraudulently, maliciously, and
24 oppressively and with the advance knowledge, conscious disregard,
25 authorization, ratification, or act of oppression, within the meaning of Cal.
26 Code of Civ. Pr. § 3294. The actions and conduct of Defendant were intended
27 to cause injury to Plaintiff with the intention to deprive Plaintiff of property
28 and legal rights, justifying an award of exemplary and punitive damages in an

amount according to proof.

FOURTH CAUSE OF ACTION
FRAUD IN THE INDUCEMENT

Count One

(Against Defendant WORLD TECH TOYS)

162. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

163. Fraudulent inducement is proven by demonstrating: (1) concealment of a material fact, (2) that the defendant had a duty to disclose, (3) the defendant intentionally concealed the fact with the intent to defraud, (4) the plaintiff must have been unaware of the fact and would not have acted as he did had the fact been disclosed, and (5) the plaintiff sustained damages as a result. (*Dienes v. FCA US LLC*, 2018 WL 1258188, at *1 (S.D.Cal., 2018).)

164. A contract may be voidable where the contract was entered into as a result of fraud in the inducement. (*Najarro v. Superior Court* (2021) 70 Cal.App.5th 871, 889.)

165. A relationship giving rise to the duty to disclose a material fact is present where some sort of transaction exists between the parties, such as a seller-buyer relationship, an employer and prospective employee relationship, a doctor-patient relationship, or parties entering into any contractual agreement. (*Hoffman v. 162 North Wolfe LLC* (2014) 228 Cal.App.4th 1178, 1187.)

166. Defendant WORLD TECH TOYS concealed from Plaintiff the fact that the PPE-Aid nitrile gloves were not comprised of 100% nitrile.

167. As the seller of the PPE-Aid nitrile gloves, Defendant WORLD TECH TOYS had a duty to disclose the true composition of the PPE-Aid nitrile

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1 gloves to Plaintiff, who placed multiple large orders for the PPE-Aid nitrile
2 gloves.

3 168. Defendant WORLD TECH TOYS was aware of its obligation to Plaintiff to
4 provide gloves comprised of 100% nitrile, as Plaintiff, through Defendant
5 INOV8, confirmed that the PPE-Aid nitrile gloves were 100% nitrile with
6 Defendant WORLD TECH TOYS on several occasions.

7 169. When Plaintiff, through Defendant INOV8, first contacted Defendant
8 WORLD TECH TOYS in approximately November of 2020, Defendant
9 WORLD TECH TOYS provided Plaintiff with a test report dated September
10 25, 2019 that purported to be results of a test that had been conducted to
11 ascertain the exact composition of the PPE-Aid nitrile gloves.

12 170. The boxes of Defendant WORLD TECH TOYS' PPE-Aid gloves
13 specifically stated: "nitrile gloves," and were shipped in boxes containing
14 Defendant WORLD TECH TOYS' company logo.

15 171. Defendant WORLD TECH TOYS further provided Plaintiff with an
16 additional specification sheet that identified the PPE-Aid nitrile gloves as
17 nitrile, FDA approved, and exam grade, and included a test report dated
18 October 6, 2020 describing the PPE-Aid nitrile gloves as "nitrile."

19 172. At no time did Defendant WORLD TECH TOYS apprise Plaintiff of the
20 fact that the PPE-Aid nitrile gloves were not, in fact, 100% nitrile.

21 173. Defendant WORLD TECH TOYS intentionally concealed the true
22 composition of the PPE-Aid nitrile gloves with the intent to defraud Plaintiff
23 and induce Plaintiff into purchasing the PPE-Aid nitrile gloves, believing them
24 to be comprised of 100% nitrile.

25 174. Accordingly, Plaintiff placed one order for purchase of Defendant WORLD
26 TECH TOYS' PPE-Aid nitrile gloves in November of 2020 for a total of
27 160,000 boxes in the sum of approximately \$2,374,663.50.
28

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1 175. Plaintiff additionally placed a second order for purchase of Defendant
2 WORLD TECH TOYS' PPE-Aid nitrile gloves in January of 2021 for a total
3 of 600,000 boxes in the sum of approximately \$5,293,431.00.

4 176. Had Plaintiff been aware that the PPE-Aid nitrile gloves were comprised of
5 phthalate plasticized PVC and not nitrile, Plaintiff would not have purchased
6 the PPE-Aid nitrile gloves from Defendant WORLD TECH TOYS.

7 177. Defendant WORLD TECH TOYS' fraudulent inducement was a
8 substantial, if not the only, factor in causing Plaintiff's harm. When it was
9 discovered that the PPE-Aid nitrile gloves were not comprised of 100% nitrile,
10 Plaintiff sustained massive financial losses as a result of returns of the non-
11 conforming product, interest rate on the non-conforming product that Plaintiff
12 could no longer sell, shipping costs, and costs of storage to warehouse the non-
13 conforming product that Plaintiff could no longer sell.

14 178. The acts and conduct of Defendant constitute "malice" as defined in Cal.
15 Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendant to cause
16 injury to Plaintiff or was despicable conduct which was carried on by
17 Defendant with a willful and conscious disregard of the rights or safety of
18 Plaintiff. The acts of Defendant were conducted fraudulently, maliciously, and
19 oppressively and with the advance knowledge, conscious disregard,
20 authorization, ratification, or act of oppression, within the meaning of Cal.
21 Code of Civ. Pr. § 3294. The actions and conduct of Defendant were intended
22 to cause injury to Plaintiff with the intention to deprive Plaintiff of property
23 and legal rights, justifying an award of exemplary and punitive damages in an
24 amount according to proof.
25
26

27 ///

28 ///

FOURTH CAUSE OF ACTION
FRAUD IN THE INDUCEMENT

Count Two

(Against Defendants INOV8, SAFDEYE, and LINKER)

179. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

180. Fraudulent inducement is proven by demonstrating: (1) concealment of a material fact, (2) that the defendant had a duty to disclose, (3) the defendant intentionally concealed the fact with the intent to defraud, (4) the plaintiff must have been unaware of the fact and would not have acted as he did had the fact been disclosed, and (5) the plaintiff sustained damages as a result. (*Dienes v. FCA US LLC*, 2018 WL 1258188, at *1 (S.D.Cal., 2018).)

181. A contract may be voidable where the contract was entered into as a result of fraud in the inducement. (*Najarro v. Superior Court* (2021) 70 Cal.App.5th 871, 889.)

182. A relationship giving rise to the duty to disclose a material fact is present where some sort of transaction exists between the parties, such as a seller-buyer relationship, an employer and prospective employee relationship, a doctor-patient relationship, or parties entering into any contractual agreement. (*Hoffman v. 162 North Wolfe LLC* (2014) 228 Cal.App.4th 1178, 1187.)

183. Upon cancellation and return of all non-conforming PPE-Aid nitrile gloves purchased from Defendant WORLD TECH TOYS, Plaintiff requested that Defendant INOV8 return all money paid by Plaintiff for all outstanding orders of Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves that had not yet been delivered to Cintas. In response, Defendant SAFDEYE informed Plaintiff that he had already transferred the funds to Defendant WORLD TECH TOYS

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1 and that Defendant WORLD TECH TOYS would not refund. Defendant
2 SAFDEYE stated that Defendant WORLD TECH TOYS owed money to the
3 bank and that the bank would take possession of the PPE-Aid gloves if
4 Plaintiff did not. Accordingly, Plaintiff was left with no choice but to have the
5 outstanding orders shipped directly to Plaintiff's warehouse. The sum paid to
6 Defendant INOV8 for these outstanding shipments was approximately
7 \$3,154,140.00, calculated by 212,400 boxes of PPE-Aid nitrile gloves at
8 Plaintiff's purchase price of \$14.85 per box.
9

10 184. Subsequently, Defendants SAFDEYE and LINKER sent Plaintiff a
11 Settlement Agreement to be executed by Plaintiff and Defendant INOV8.

12 185. The Settlement Agreement, dated March 4, 2021, purported to release
13 Defendant INOV8 from any liabilities relating to certain non-conforming
14 products that Defendant INOV8 purchased on behalf of Plaintiff.

15 186. Specifically, the Settlement Agreement provided that Plaintiff would not be
16 required to take delivery on product ordered from Defendant INOV8, and
17 further, that Plaintiff acknowledged that Defendant INOV8 was required to
18 deposit funds toward certain orders and that *if* Defendant INOV8 was able to
19 recover any sum of the deposits paid, Defendant INOV8 would return the
20 funds to Plaintiff.

21 187. The Settlement Agreement specified that Defendant INOV8 had paid a total
22 deposit amount of approximately \$1,665,725.00, however, the Settlement
23 Agreement did not mandate that Defendant INOV8 return any funds to
24 Plaintiff unless such funds were recovered by Defendant INOV8.

25 188. Defendants INOV8, SAFDEYE, and LINKER concealed from Plaintiff
26 their intent to induce Plaintiff into signing the Settlement Agreement for the
27 sole purpose of withholding funds from Plaintiff as a result of the return of the
28 fraudulent and non-conforming PPE-Aid nitrile gloves purchased from

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1 Defendant WORLD TECH TOYS.

2 189. Plaintiff, on one hand, and Defendants INOV8, SAFDEYE, and LINKER,
3 on the other, were engaged in an ongoing contractual relationship wherein
4 Defendants INOV8, SAFDEYE, and LINKER, acting on behalf of and as
5 agents of Plaintiff, sourced gloves comprised of 100% nitrile.

6 190. This contractual relationship bound Defendants INOV8, SAFDEYE, and
7 LINKER to a duty to disclose all material facts affecting Plaintiff or Plaintiff's
8 rights.

9 191. Defendants INOV8, SAFDEYE, and LINKER intentionally concealed their
10 intent to withhold funds from Plaintiff that Plaintiff was entitled to as a result
11 of the return of the non-conforming PPE-Aid nitrile gloves with the intent to
12 induce Plaintiff into signing the Settlement Agreement, which purported to
13 release Defendants INOV8, SAFDEYE, and LINKER from all liability relating
14 to Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves.

15 192. Defendants SAFDEYE and LINKER induced Plaintiff's execution of the
16 Settlement Agreement by informing Plaintiff that Defendant INOV8 would
17 recover Plaintiff's funds and further, that a third party would purchase the non-
18 conforming goods but could not prior to execution of the Settlement
19 Agreement.

20 193. Defendant LINKER further induced Plaintiff's execution of the Settlement
21 Agreement by informing Plaintiff that if Plaintiff did not sign, Plaintiff would
22 lose the Shoe Show business. Despite the fact that Plaintiff did sign the
23 Settlement Agreement, Defendant LINKER, on information and belief,
24 subsequently transferred the entire Shoe Show business into Defendant
25 SAFDEYE's other company, Majesty Brands, without Plaintiff's knowledge or
26 authorization, resulting in Plaintiff losing the Shoe Show business. Plaintiff
27 possessed approximately \$3,000,000.00 in inventory that was subsequently
28

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1 transferred to Majesty Brands.

2 194. Had Plaintiff been aware of the true intent of Defendants INOV8,
3 SAFDEYE, and LINKER, Plaintiff would not have signed the Settlement
4 Agreement.

5 195. The fraudulent inducement of Defendants INOV8, SAFDEYE, and
6 LINKER was a substantial, if not the only, factor in causing Plaintiff's harm.
7 When it was discovered that the PPE-Aid nitrile gloves were not comprised of
8 100% nitrile, Plaintiff sustained massive financial losses as a result of returns
9 of the non-conforming product, interest rate on the non-conforming product
10 that Plaintiff could no longer sell, shipping costs, and costs of storage to
11 warehouse the non-conforming product that Plaintiff could no longer sell.

12 196. Accordingly, Plaintiff sought to recover these losses by attempting to
13 recover the money Plaintiff had paid to Defendant INOV8 for purchase of
14 Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves in the sum of
15 approximately \$3,154,140.00.

16 197. Defendants INOV8, SAFDEYE, and LINKER, however, sought to
17 capitalize off of Plaintiff's losses and hastily induced Plaintiff to sign the
18 Settlement Agreement so that Defendants INOV8, SAFDEYE, and LINKER
19 would not be obligated to return any funds owed to Plaintiff.

20 198. In total, Plaintiff compensated Defendant INOV8 approximately
21 \$3,883,965.50, fulfilling Defendant INOV8's Invoice Nos. 1017 dated January
22 20, 2021, 1019 dated January 25, 2021, 1021 dated January 25, 2021, 1022
23 dated February 1, 2021, and 1019 dated February 16, 2021.

24 199. Although Defendant INOV8 returned to Plaintiff the \$3,154,140.00 for
25 Plaintiff's purchase of 600,000 boxes of Defendant WORLD TECH TOYS'
26 PPE-Aid nitrile gloves that Plaintiff was forced to possess and store, as well as
27 an additional \$318,417.50 for non-conforming goods from another supplier,
28

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1 Defendant INOV8 owed Plaintiff approximately \$96,982.50 for shortages on
2 Defendant INOV8's Invoice Nos. 1019, 1015, 1015, and 1016, amounting to a
3 total owed to Plaintiff in the sum of approximately \$508,390.50 on the total
4 \$3,883,965.50 Plaintiff paid to Defendant INOV8 after accounting for the
5 monies returned.

6
7 200. On or about February 19, 2021, Defendant SAFDEYE returned an
8 additional \$250,000 to Plaintiff, rendering the outstanding sum owed to
9 Plaintiff approximately \$258,390.50.

10 201. When Plaintiff inquired as to when Plaintiff could expect to receive the
11 remaining \$258,390.50, Defendant SAFDEYE informed Plaintiff that he had,
12 without Plaintiff's knowledge or authorization, sent the remaining outstanding
13 balance to Defendant WORLD TECH TOYS for a deposit on 300,000 boxes of
14 the PPE-Aid nitrile gloves.

15 202. At no time did Plaintiff instruct Defendant SAFDEYE or Defendant
16 LINKER to continue ordering the non-conforming PPE-Aid nitrile gloves from
17 Defendant WORLD TECH TOYS, especially after sustaining massive
18 financial losses in the return of the PPE-Aid nitrile gloves from Cintas.

19 203. On information and belief, Plaintiff alleges that Defendant SAFDEYE
20 misrepresented the true circumstances of the outstanding balance owed to
21 Plaintiff in the sum of approximately \$258,390.50 and intends to withhold
22 those funds from Plaintiff by leading Plaintiff to believe that Defendants
23 INOV8, SAFDEYE, and LINKER no longer possess the funds.

24 204. The Settlement Agreement executed on or about March 4, 2021 is further
25 voidable due to the fraudulent inducements of Defendants INOV8, SAFDEYE,
26 and LINKER, entitling Plaintiff to recover the entire sum to which Plaintiff is
27 owed.
28

205. The acts and conduct of Defendants constitute "malice" as defined in Cal.

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Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendants to cause injury to Plaintiff or was despicable conduct which was carried on by Defendants with a willful and conscious disregard of the rights or safety of Plaintiff. The acts of Defendants were conducted fraudulently, maliciously, and oppressively and with the advance knowledge, conscious disregard, authorization, ratification, or act of oppression, within the meaning of Cal. Code of Civ. Pr. § 3294. The actions and conduct of Defendants were intended to cause injury to Plaintiff with the intention to deprive Plaintiff of property and legal rights, justifying an award of exemplary and punitive damages in an amount according to proof.

FIFTH CAUSE OF ACTION
INTENTIONAL MISREPRESENTATION
(Against All Defendants)

206. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

207. To prove a claim for intentional misrepresentation, a plaintiff must demonstrate: (1) a misrepresentation, (2) knowledge of its falsity, (3) made with the intent to induce reliance, (4) actual and justifiable reliance, and (5) resulting damages. (*Chapman v. Skype Inc.* (2013) 220 Cal.App.4th 217, 230-31.)

208. Reliance exists where the misrepresentation immediately caused plaintiff's conduct which altered the plaintiff's legal relations and where without such misrepresentation, the plaintiff would not have entered into the contract or transaction. (*Manderville v. PCG&S Group, Inc.* (2007) 146 Cal.App.4th 1486, 1498.)

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209. A plaintiff's negligence in failing to discover the falsity of a statement is not a defense where the misrepresentation was intentional. (*Id.*)

210. All times described herein, Defendant WORLD TECH TOYS represented to Plaintiff, through Defendant INOV8, that the PPE-Aid nitrile gloves were comprised of 100% nitrile.

211. Defendants INOV8, SAFDEYE, and LINKER further perpetrated this misrepresentation by providing Plaintiff with multiple specification sheets from Defendant WORLD TECH TOYS and by attempting to convince Plaintiff that the misrepresentation made by Defendant WORLD TECH TOYS was not made in bad faith.

212. On or about November 24, 2020, Defendant LINKER provided Plaintiff with a test report dated September 25, 2019 that purported to be results of a test that had been conducted to ascertain the exact composition of the PPE-Aid nitrile gloves from Defendant WORLD TECH TOYS.

213. The boxes of Defendant WORLD TECH TOYS' PPE-Aid gloves specifically stated: "nitrile gloves," and were shipped in boxes containing Defendant WORLD TECH TOYS' company logo.

214. Defendant WORLD TECH TOYS further provided Plaintiff with an additional specification sheet that identified the PPE-Aid nitrile gloves as nitrile, FDA approved, and exam grade, and included a test report dated October 6, 2020 describing the PPE-Aid nitrile gloves as "nitrile."

215. Defendant WORLD TECH TOYS intentionally misrepresented the true composition of the PPE-Aid nitrile gloves with the intent to defraud Plaintiff and induce Plaintiff into purchasing the PPE-Aid nitrile gloves, believing them to be comprised of 100% nitrile.

216. As Defendant WORLD TECH TOYS was the supplier of the PPE-Aid nitrile gloves and specifically marketed the PPE-Aid gloves with Defendant

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1 WORLD TECH TOYS' logo, Defendant WORLD TECH TOYS knew or
2 should have known that the PPE-Aid nitrile gloves were not 100% nitrile, but
3 rather, were comprised of phthalate plasticized PVC.

4 217. Accordingly, Plaintiff placed one order for purchase of Defendant WORLD
5 TECH TOYS' PPE-Aid nitrile gloves in November of 2020 for a total of
6 160,000 boxes in the sum of approximately \$2,374,663.50.

7 218. Plaintiff additionally placed a second order for purchase of Defendant
8 WORLD TECH TOYS' PPE-Aid nitrile gloves in January of 2021 for a total
9 of 600,000 boxes in the sum of approximately \$5,293,431.00.

10 219. Had Plaintiff been aware that the PPE-Aid nitrile gloves were comprised of
11 phthalate plasticized PVC and not nitrile, Plaintiff would not have purchased
12 the PPE-Aid nitrile gloves from Defendant WORLD TECH TOYS.

13 220. When it was discovered that the PPE-Aid nitrile gloves were comprised of
14 phthalate plasticized PVC and were not 100% nitrile, Defendant LINKER sent
15 Plaintiff a Bill of Lading from Feida Toys Co., Ltd., purportedly from
16 Defendant WORLD TECH TOYS, concurrent with a text message that stated
17 none of the PPE-Aid nitrile gloves were fake, "no one did anything wrong,"
18 "no one scammed us," and that the attached Bill of Lading proved that the
19 PPE-Aid nitrile gloves were real.

20 221. On or about March 10, 2021, Defendant LINKER sent Plaintiff a letter
21 from the United States FDA dated November 30, 2018 that purportedly
22 identified Hongray as the manufacturer of Defendant WORLD TECH TOYS'
23 PPE-Aid nitrile gloves.

24 222. On or about March 19, 2021, a representative on behalf of Plaintiff
25 contacted Hongray, requesting confirmation that the brand PPE-Aid was
26 comprised of 100% nitrile. Plaintiff received a response from Hongray the
27 same day stating that the PPE-Aid brand was not manufactured by Hongray
28

1 and that it was counterfeit.

2 223. Defendants INOV8, SAFDEYE, and LINKER intentionally misrepresented
3 the true composition of the PPE-Aid nitrile gloves, as well as the true
4 manufacturer of the PPE-Aid nitrile gloves, with the intent to defraud Plaintiff
5 and induce Plaintiff into purchasing the PPE-Aid nitrile gloves, thereby
6 generating profits and commission fees for Defendants INOV8, SAFDEYE,
7 and LINKER.

8 224. Had Plaintiff been aware that the PPE-Aid nitrile gloves were comprised of
9 phthalate plasticized PVC and not nitrile, Plaintiff would not have purchased
10 the PPE-Aid nitrile gloves from Defendant WORLD TECH TOYS.

11 225. The fraudulent misrepresentation made by Defendants WORLD TECH
12 TOYS, INOV8, SAFDEYE, and LINKER was a substantial, if not the only,
13 factor in causing Plaintiff's harm. When it was discovered that the PPE-Aid
14 nitrile gloves were not comprised of 100% nitrile, Plaintiff sustained massive
15 financial losses as a result of returns of the non-conforming product, interest
16 rate on the non-conforming product that Plaintiff could no longer sell, shipping
17 costs, and costs of storage to warehouse the non-conforming product that
18 Plaintiff could no longer sell.

19 226. The acts and conduct of Defendants constitute "malice" as defined in Cal.
20 Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendants to cause
21 injury to Plaintiff or was despicable conduct which was carried on by
22 Defendants with a willful and conscious disregard of the rights or safety of
23 Plaintiff. The acts of Defendants were conducted fraudulently, maliciously,
24 and oppressively and with the advance knowledge, conscious disregard,
25 authorization, ratification, or act of oppression, within the meaning of Cal.
26 Code of Civ. Pr. § 3294. The actions and conduct of Defendants were intended
27 to cause injury to Plaintiff with the intention to deprive Plaintiff of property
28

and legal rights, justifying an award of exemplary and punitive damages in an amount according to proof.

SIXTH CAUSE OF ACTION

INTENTIONAL INTERFERENCE WITH CONTRACT

(Against Defendants INOV8, SAFDEYE, and LINKER)

227. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

228. To prove a claim for intentional interference with contractual relations, a plaintiff must show: (1) a valid contract between the plaintiff and a third party, (2) defendant's knowledge of this contract, (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship, (4) actual breach or disruption, and (5) resulting damages. (*Mossimo Holdings, LLC v. Haralambus*, 2017 WL 1240739, at *5 (C.D.Cal., 2017).

229. Plaintiff possessed a valid and existing contract with Cintas, governed by the Cintas Purchase Agreement dated October 30, 2020.

230. Under the Cintas Purchase Agreement, Plaintiff was obligated to provide gloves comprised of 100% nitrile.

231. Specifically, Cintas was to purchase the following from Plaintiff:

A. Product: Powder Free, Disposable, Nitrile Gloves. Sizes: Small, Medium, Large, Extra Large.

B. Product: Powder Free, Disposable, Nitrile Examination Gloves. Sizes: Small, Medium, Large, Extra Large.

232. Defendants INOV8, SAFDEYE, and LINKER were aware that Plaintiff was a party to the Cintas Purchase Agreement, because Defendants SAFDEYE and LINKER, through Defendant INOV8, acted as agents of Plaintiff in sourcing suppliers of the 100% nitrile gloves in order for Plaintiff to fulfill the

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multiple purchase orders from Cintas.

233. Per standard procedure, Defendant INOV8 would obtain the specification sheet from each manufacturer of gloves sourced and would forward the specification sheet to Plaintiff, who would in turn forward it to Cintas for approval prior to finalizing the purchase.

234. Defendants INOV8, SAFDEYE, and LINKER were further aware that the Cintas Purchase Agreement obligated Plaintiff to provide gloves comprised of 100% nitrile, because on each occasion on which gloves were sourced, Plaintiff requested confirmation that the gloves were 100% nitrile.

235. Defendants SAFDEYE and LINKER, by and through Defendant INOV8, each with full knowledge of the Cintas Purchase Agreement, intentionally and maliciously interfered with Plaintiff's existing contract by representing to Plaintiff that Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves were 100% nitrile.

236. On or about November 24, 2020, Defendant LINKER provided Plaintiff with a test report dated September 25, 2019 that purported to be results of a test that had been conducted to ascertain the exact composition of the PPE-Aid nitrile gloves from Defendant WORLD TECH TOYS.

237. In confirming that Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves were 100% nitrile to meet the requirements under the Cintas Purchase Agreement, Defendant SAFDYE informed Plaintiff that the vendor, Defendant WORLD TECH TOYS, certified that the PPE-Aid nitrile gloves were 100% nitrile.

238. On or about February 22, 2021, Plaintiff received an additional specification sheet from Defendant SAFDEYE for Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves. The additional specification sheet identified Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves as nitrile, FDA

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1 approved, and exam grade, and further included a test report dated October 6,
2 2020 describing the PPE-Aid nitrile gloves as “nitrile.”

3 239. When it was discovered that the PPE-Aid nitrile gloves were comprised of
4 phthalate plasticized PVC and were not 100% nitrile, Defendant LINKER sent
5 Plaintiff a Bill of Lading from Feida Toys Co., Ltd., purportedly from
6 Defendant WORLD TECH TOYS, concurrent with a text message that stated
7 none of the PPE-Aid nitrile gloves were fake, “no one did anything wrong,”
8 “no one scammed us,” and that the attached Bill of Lading proved that the
9 PPE-Aid nitrile gloves were real.

10 240. On or about March 10, 2021, Defendant LINKER sent Plaintiff a letter
11 from the United States FDA dated November 30, 2018 that purportedly
12 identified Hongray as the manufacturer of Defendant WORLD TECH TOYS’
13 PPE-Aid nitrile gloves.

14 241. On or about March 19, 2021, a representative on behalf of Plaintiff
15 contacted Hongray, requesting confirmation that the brand PPE-Aid was
16 comprised of 100% nitrile. Plaintiff received a response from Hongray the
17 same day stating that the PPE-Aid brand was not manufactured by Hongray
18 and that it was counterfeit.

19 242. On or about November 15, 2021, Plaintiff contacted Mr. Kouyoumijan,
20 informing Mr. Kouyoumijan of the test results Plaintiff had received regarding
21 the PPE-Aid nitrile gloves. In response, Mr. Kouyoumijan requested that
22 Plaintiff forward the specification sheet received from Defendant SAFDEYE.
23 In a telephone conversation between Plaintiff and Mr. Kouyoumijan shortly
24 thereafter, Mr. Kouyoumijan informed Plaintiff that Defendant SAFDEYE was
25 aware that the PPE-Aid nitrile gloves were not 100% nitrile.

26 243. At all times herein, Defendants SAFDEYE and LINKER, by and through
27 Defendant INOV8, represented to Plaintiff that the PPE-Aid nitrile gloves were
28

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1 comprised of 100% nitrile, thereby inducing Plaintiff to purchase large
2 quantities of the PPE-Aid nitrile gloves, which led to profits for Defendant
3 INOV8.

4 244. The acts of Defendants SAFDEYE and LINKER, by and through
5 Defendant INOV8, were intentionally designed to disrupt Plaintiff's
6 contractual relationship with Cintas, at the sole expense of Plaintiff and for the
7 sole benefit of Defendants INOV8, SAFDEYE, and LINKER.

8 245. Actual disruption of the Cintas Purchase Agreement did occur, as when it
9 was discovered that the PPE-Aid nitrile gloves were not comprised of 100%
10 nitrile, Cintas, per its authority under the Cintas Purchase Agreement,
11 cancelled and returned the non-conforming PPE-Aid nitrile gloves.

12 246. On or about February 24, 2021, Plaintiff received an email from Cintas
13 confirming that all pending orders of Defendant WORLD TECH TOYS' PPE-
14 Aid nitrile gloves were cancelled.

15 247. Cintas additionally requested to be credited for all of Defendant WORLD
16 TECH TOYS' PPE-Aid nitrile gloves that Cintas was returning and informed
17 Plaintiff that Cintas would not pay any outstanding invoices until all credits
18 were issued for the non-conforming PPE-Aid nitrile gloves.

19 248. Cintas thereafter returned all of Defendant WORLD TECH TOYS' PPE-
20 Aid nitrile gloves that were shipped in January and February of 2021, plus an
21 additional 7,594 boxes of the first purchase order made on or about December
22 2, 2020, amounting to a total of 151,654 boxes returned to Plaintiff and a loss
23 sustained by Plaintiff at a sum of \$2,252,061.90, calculated by 151,654 boxes
24 at Plaintiff's purchase price of \$14.85 per box.

25 249. When Plaintiff requested that Defendant INOV8 return all money paid by
26 Plaintiff for all outstanding orders of Defendant WORLD TECH TOYS' PPE-
27 Aid nitrile gloves that had not yet been delivered to Cintas, Defendant
28

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1 SAFDEYE informed Plaintiff that he had already transferred the funds to
2 Defendant WORLD TECH TOYS and that Defendant WORLD TECH TOYS
3 would not refund. Defendant SAFDEYE stated that Defendant WORLD
4 TECH TOYS owed money to the bank and that the bank would take
5 possession of the PPE-Aid gloves if Plaintiff did not. Accordingly, Plaintiff
6 was left with no choice but to have the outstanding orders shipped directly to
7 Plaintiff's warehouse. The sum paid to Defendant INOV8 for these outstanding
8 shipments was approximately \$3,154,140.00, calculated by 212,400 boxes of
9 PPE-Aid nitrile gloves at Plaintiff's purchase price of \$14.85 per box.
10

11 250. As a direct and proximate result of the intentional interference with
12 Plaintiff's existing contract with Cintas, Plaintiff sustained massive financial
13 losses as a result of returns of the non-conforming product, interest rate on the
14 non-conforming product that Plaintiff could no longer sell, shipping costs, and
15 costs of storage to warehouse the non-conforming product that Plaintiff could
16 no longer sell.

17 251. Accordingly, Plaintiff has suffered damages in a sum to be shown
18 according to proof, but in no event less than the jurisdictional minimum of this
19 Court.

20 252. The acts and conduct of Defendants constitute "malice" as defined in Cal.
21 Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendants to cause
22 injury to Plaintiff or was despicable conduct which was carried on by
23 Defendants with a willful and conscious disregard of the rights or safety of
24 Plaintiff. The acts of Defendants were conducted fraudulently, maliciously,
25 and oppressively and with the advance knowledge, conscious disregard,
26 authorization, ratification, or act of oppression, within the meaning of Cal.
27 Code of Civ. Pr. § 3294. The actions and conduct of Defendants were intended
28 to cause injury to Plaintiff with the intention to deprive Plaintiff of property

and legal rights, justifying an award of exemplary and punitive damages in an amount according to proof.

SEVENTH CAUSE OF ACTION

INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

(Against Defendants INOV8, SAFDEYE, and LINKER)

253. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

254. To prove intentional interference with prospective economic advantage, a plaintiff must show: (1) an economic relationship between the plaintiff and a third party, with the probability of a future economic benefit to the plaintiff, (2) the defendant's knowledge of the relationship, (3) intentional acts on the part of the defendant designed to disrupt the relationship, (4) actual disruption of the relationship, and (5) economic harm sustained by the plaintiff caused by the defendant's acts. (*Marsh v. Anesthesia Servs. Med. Grp., Inc.* (2011) 200 Cal.App.4th 480, 504.)

255. A defendant need not act with the specific intent or purpose of disrupting the plaintiff's prospective economic advantage, rather, it is sufficient that the defendant knew that interference was certain or substantially certain to occur as a result of the defendant's actions. (*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1153.)

256. A plaintiff may prove intentional interference with prospective economic advantage by showing the defendant intentionally interfered with an existing contract, which courts have identified as "a wrong in and of itself," or alternatively, by showing the defendant engaged in an independently wrongful

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1 act. (*Id.* at 1158.)

2 257. Plaintiff had an existing, ongoing, and valuable business relationship with
3 Cintas, and had a reasonable expectation that relationship would continue
4 unless wrongfully interfered with. Defendants SAFDEYE and LINKER, by
5 and through Defendant INOV8, were aware that Plaintiff was a party to the
6 Cintas Purchase Agreement, because Defendants SAFDEYE and LINKER,
7 through Defendant INOV8, acted as agents of Plaintiff in sourcing suppliers of
8 the 100% nitrile gloves in order for Plaintiff to fulfill the multiple purchase
9 orders from Cintas.

10 258. Defendants SAFDEYE and LINKER, by and through Defendant INOV8,
11 each with full knowledge of the Cintas Purchase Agreement, intentionally and
12 maliciously interfered with Plaintiff's existing contract by representing to
13 Plaintiff that Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves were
14 100% nitrile.

15 259. Per standard procedure, Defendant INOV8 would obtain the specification
16 sheet from each manufacturer of gloves sourced and would forward the
17 specification sheet to Plaintiff, who would in turn forward it to Cintas for
18 approval prior to finalizing the purchase.

19 260. Defendants INOV8, SAFDEYE, and LINKER were further aware that the
20 Cintas Purchase Agreement obligated Plaintiff to provide gloves comprised of
21 100% nitrile, because on each occasion on which gloves were sourced,
22 Plaintiff requested confirmation that the gloves were 100% nitrile.

23 261. Defendants SAFDEYE and LINKER, by and through Defendant INOV8,
24 each with full knowledge of the Cintas Purchase Agreement, intentionally and
25 maliciously interfered with Plaintiff's existing contract by representing to
26 Plaintiff that Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves were
27 100% nitrile.
28

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1 262. On or about November 24, 2020, Defendant LINKER provided Plaintiff
2 with a test report dated September 25, 2019 that purported to be results of a
3 test that had been conducted to ascertain the exact composition of the PPE-Aid
4 nitrile gloves from Defendant WORLD TECH TOYS.

5 263. In confirming that Defendant WORLD TECH TOYS' PPE-Aid nitrile
6 gloves were 100% nitrile to meet the requirements under the Cintas Purchase
7 Agreement, Defendant SAFDYE informed Plaintiff that the vendor, Defendant
8 WORLD TECH TOYS, certified that the PPE-Aid nitrile gloves were 100%
9 nitrile.

10 264. On or about February 22, 2021, Plaintiff received an additional
11 specification sheet from Defendant SAFDEYE for Defendant WORLD TECH
12 TOYS' PPE-Aid nitrile gloves. The additional specification sheet identified
13 Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves as nitrile, FDA
14 approved, and exam grade, and further included a test report dated October 6,
15 2020 describing the PPE-Aid nitrile gloves as "nitrile."

16 265. When it was discovered that the PPE-Aid nitrile gloves were comprised of
17 phthalate plasticized PVC and were not 100% nitrile, Defendant LINKER sent
18 Plaintiff a Bill of Lading from Feida Toys Co., Ltd., purportedly from
19 Defendant WORLD TECH TOYS, concurrent with a text message that stated
20 none of the PPE-Aid nitrile gloves were fake, "no one did anything wrong,"
21 "no one scammed us," and that the attached Bill of Lading proved that the
22 PPE-Aid nitrile gloves were real.

23 266. On or about March 10, 2021, Defendant LINKER sent Plaintiff a letter
24 from the United States FDA dated November 30, 2018 that purportedly
25 identified Hongray as the manufacturer of Defendant WORLD TECH TOYS'
26 PPE-Aid nitrile gloves.

27 267. On or about March 19, 2021, a representative on behalf of Plaintiff
28

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1 contacted Hongray, requesting confirmation that the brand PPE-Aid was
2 comprised of 100% nitrile. Plaintiff received a response from Hongray the
3 same day stating that the PPE-Aid brand was not manufactured by Hongray
4 and that it was counterfeit.

5 268. On or about November 15, 2021, Plaintiff contacted Mr. Kouyoumijan,
6 informing Mr. Kouyoumijan of the test results Plaintiff had received regarding
7 the PPE-Aid nitrile gloves. In response, Mr. Kouyoumijan requested that
8 Plaintiff forward the specification sheet received from Defendant SAFDEYE.
9 In a telephone conversation between Plaintiff and Mr. Kouyoumijan shortly
10 thereafter, Mr. Kouyoumijan informed Plaintiff that Defendant SAFDEYE was
11 aware that the PPE-Aid nitrile gloves were not 100% nitrile.

12 269. At all times herein, Defendants SAFDEYE and LINKER, by and through
13 Defendant INOV8, represented to Plaintiff that the PPE-Aid nitrile gloves were
14 comprised of 100% nitrile, thereby inducing Plaintiff to purchase large
15 quantities of the PPE-Aid nitrile gloves, which led to profits for Defendant
16 INOV8.

17 270. The acts of Defendants SAFDEYE and LINKER, by and through
18 Defendant INOV8, were intentionally designed to disrupt Plaintiff's
19 contractual relationship with Cintas, at the sole expense of Plaintiff and for the
20 sole benefit of Defendants INOV8, SAFDEYE, and LINKER.

21 271. Actual disruption of the Cintas Purchase Agreement did occur, as when it
22 was discovered that the PPE-Aid nitrile gloves were not comprised of 100%
23 nitrile, Cintas, per its authority under the Cintas Purchase Agreement,
24 cancelled and returned the non-conforming PPE-Aid nitrile gloves.

25 272. On or about February 24, 2021, Plaintiff received an email from Cintas
26 confirming that all pending orders of Defendant WORLD TECH TOYS' PPE-
27 Aid nitrile gloves were cancelled.
28

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1 273. Cintas additionally requested to be credited for all of Defendant WORLD
2 TECH TOYS' PPE-Aid nitrile gloves that Cintas was returning and informed
3 Plaintiff that Cintas would not pay any outstanding invoices until all credits
4 were issued for the non-conforming PPE-Aid nitrile gloves.

5 274. Cintas thereafter returned all of Defendant WORLD TECH TOYS' PPE-
6 Aid nitrile gloves that were shipped in January and February of 2021, plus an
7 additional 7,594 boxes of the first purchase order made on or about December
8 2, 2020, amounting to a total of 151,654 boxes returned to Plaintiff and a loss
9 sustained by Plaintiff at a sum of \$2,252,061.90, calculated by 151,654 boxes
10 at Plaintiff's purchase price of \$14.85 per box.

11 275. Defendants INOV8, SAFDEYE, and LINKER were fully aware of
12 Plaintiff's intent to maintain the relationship with Cintas, as Defendants
13 SAFDEYE and LINKER, by and through Defendant INOV8, routinely sourced
14 gloves comprised of 100% nitrile for Plaintiff's ongoing relationship.

15 276. Plaintiff's ongoing relationship with Cintas was likely to provide a future
16 economic benefit to Plaintiff, as Cintas continued placing orders and Plaintiff
17 continued to fulfill them.

18 277. As a direct and proximate result of the intentional interference with
19 Plaintiff's existing contract with Cintas, Plaintiff sustained massive financial
20 losses as a result of returns of the non-conforming product, interest rate on the
21 non-conforming product that Plaintiff could no longer sell, shipping costs, and
22 costs of storage to warehouse the non-conforming product that Plaintiff could
23 no longer sell.

24 278. Plaintiff is informed and beliefs, and thereon alleges, that the actions of
25 Defendants INOV8, SAFDEYE, and LINKER were undertaken for the
26 purpose of damaging Plaintiff and rendering Plaintiff unable to fulfill its
27 obligations under the Cintas Purchase Agreement, and therefore, future
28

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1 purchase orders from Cintas.
2
3 279. Accordingly, Plaintiff has suffered damages in a sum to be shown
4 according to proof, but in no event less than the jurisdictional minimum of this
5 Court.
6
7 280. The acts and conduct of Defendants constitute “malice” as defined in Cal.
8 Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendants to cause
9 injury to Plaintiff or was despicable conduct which was carried on by
10 Defendants with a willful and conscious disregard of the rights or safety of
11 Plaintiff. The acts of Defendants were conducted fraudulently, maliciously,
12 and oppressively and with the advance knowledge, conscious disregard,
13 authorization, ratification, or act of oppression, within the meaning of Cal.
14 Code of Civ. Pr. § 3294. The actions and conduct of Defendants were intended
15 to cause injury to Plaintiff with the intention to deprive Plaintiff of property
16 and legal rights, justifying an award of exemplary and punitive damages in an
17 amount according to proof.

18 **EIGHTH CAUSE OF ACTION**

19 **UNFAIR COMPETITION**

20 **(Against Defendant WORLD TECH TOYS)**

21 281. Plaintiff hereby incorporates by reference each and all of the allegations
22 contained in all paragraphs of this Complaint as though fully set forth within
23 this Cause of Action.

24 282. The acts, omissions, and practices of Defendants, and each of them, as
25 alleged herein, constitute unlawful and unfair business practices within the
26 meaning of California Business & Professions Code § 17200, *et. seq.*

27 283. Unlawful business practices under California’s unfair competition law
28 includes “anything that can properly be called a business practice and that at

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1 the same time is forbidden by law.” (*People v. Persolve, LLC* (2013) 218
2 Cal.App.4th 1267, 1273.)

3 284. Where the alleged acts are fraudulent, a plaintiff need only show that
4 members of the public are likely to be deceived. (*Id.* at 1272-73.)

5 285. In pleading fraud under the unfair competition law, a plaintiff must
6 demonstrate reliance on the fraud leading to the plaintiff’s injuries, although
7 the plaintiff need not show that the fraudulent conduct was the sole, or even the
8 predominant or decisive factor. (*Id.*)

9 286. Defendant WORLD TECH TOYS has engaged in unlawful and fraudulent
10 acts by intentionally misrepresenting and marketing its PPE-Aid nitrile gloves
11 as comprised of 100% nitrile, when in fact, the PPE-Aid nitrile gloves are
12 comprised of phthalate plasticized PVC.

13 287. The boxes of Defendant WORLD TECH TOYS’ PPE-Aid gloves
14 specifically stated: “nitrile gloves,” and were shipped in boxes containing
15 Defendant WORLD TECH TOYS’ company logo.

16 288. On information and belief, Defendant WORLD TECH TOYS specifically
17 represented to Plaintiff, through Defendant SAFDEYE that the PPE-Aid nitrile
18 gloves were 100% nitrile.

19 289. Defendant WORLD TECH TOYS further provided Plaintiff with an
20 additional specification sheet that identified the PPE-Aid nitrile gloves as
21 nitrile, FDA approved, and exam grade, and included a test report dated
22 October 6, 2020 describing the PPE-Aid nitrile gloves as “nitrile.”

23 290. Defendant WORLD TECH TOYS intentionally misrepresented the true
24 composition of the PPE-Aid nitrile gloves with the intent to defraud Plaintiff
25 and induce Plaintiff into purchasing the PPE-Aid nitrile gloves, believing them
26 to be comprised of 100% nitrile.

27 291. As Defendant WORLD TECH TOYS was the supplier of the PPE-Aid
28

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1 nitrile gloves and specifically marketed the PPE-Aid gloves with Defendant
2 WORLD TECH TOYS' logo, Defendant WORLD TECH TOYS knew or
3 should have known that the PPE-Aid nitrile gloves were not 100% nitrile, but
4 rather, were comprised of phthalate plasticized PVC.

5 292. As Defendant WORLD TECH TOYS at all times herein marketed the PPE-
6 Aid nitrile gloves as 100% nitrile, members of the public, such as Plaintiff,
7 were likely to be deceived into believing the PPE-Aid nitrile gloves were
8 comprised of 100% nitrile.

9 293. Plaintiff relied on Defendant WORLD TECH TOYS' fraudulent
10 representations, as Plaintiff had no reason to believe that Defendant WORLD
11 TECH TOYS would fraudulently conceal such a material fact.

12 294. Accordingly, Plaintiff placed one order for purchase of Defendant WORLD
13 TECH TOYS' PPE-Aid nitrile gloves in November of 2020 for a total of
14 160,000 boxes in the sum of approximately \$2,374,663.50.

15 295. Plaintiff additionally placed a second order for purchase of Defendant
16 WORLD TECH TOYS' PPE-Aid nitrile gloves in January of 2021 for a total
17 of 600,000 boxes in the sum of approximately \$5,293,431.00.

18 296. Had Plaintiff been aware that the PPE-Aid nitrile gloves were comprised of
19 phthalate plasticized PVC and not nitrile, Plaintiff would not have purchased
20 the PPE-Aid nitrile gloves from Defendant WORLD TECH TOYS.

21 297. Plaintiff is informed and believes and thereon alleges that Defendant
22 WORLD TECH TOYS' conduct was performed with the intent and purpose of
23 damaging or destroying Plaintiff's business and reputation.

24 298. When it was discovered that the PPE-Aid nitrile gloves purchased from
25 Defendant WORLD TECH TOYS were not comprised of 100% nitrile,
26 Plaintiff sustained massive financial losses as a result of returns of the non-
27 conforming product, interest rate on the non-conforming product that Plaintiff
28

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could no longer sell, shipping costs, and costs of storage to warehouse the non-conforming product that Plaintiff could no longer sell.

299. Unless restrained, Defendant WORLD TECH TOYS will continue in the acts and conduct alleged herein that have resulted and will continue to result in irreparable injury to Plaintiff for which damages would not afford adequate relief. Plaintiff therefore requests this Court issue a permanent injunction pursuant to California Business & Professions Code § 17203 restraining and enjoining Defendant WORLD TECH TOYS, and anyone acting at their direction or in concert with Defendant WORLD TECH TOYS, from continuing the acts of unfair competition alleged herein.

NINTH CAUSE OF ACTION

CONVERSION

(Against Defendants INOV8, SAFDEYE, and LINKER)

300. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

301. To prove an act of conversion occurred, a party must demonstrate that: (1) the party had ownership or rights to possession of the property at issue at the time of the alleged conversion, (2) the defendant acquired the property by a wrongful act or disposition of property rights, and (3) the plaintiff was damaged as a result. (*Spates v. Dameron Hospital Assn.* (2003) 114 Cal.App.4th 208, 221.)

302. A manual taking of the property at issue is not required, rather, it is sufficient to show only an assumption of ownership over the property, or that the defendant has applied the property to the defendant's own use. (*Id.*)

303. A party further need not prove knowledge, motive, or bad faith on the part

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1 of the defendant. (*Duvall v. Galt Medical Corp.*, 2007 WL 4207792, at *9
2 (N.D.Cal.,2007).)

3 304. Defendants SAFDEYE and LINKER, by and through Defendant INOV8,
4 fraudulently converted funds that Plaintiff was rightfully entitled to upon
5 return of the non-conforming PPE-Aid nitrile gloves sold by Defendant
6 WORLD TECH TOYS.
7

8 305. When it was discovered that the PPE-Aid nitrile gloves purchased from
9 Defendant WORLD TECH TOYS were not comprised of 100% nitrile, Cintas,
10 per its authority under the Cintas Purchase Agreement, cancelled and returned
11 the non-conforming PPE-Aid nitrile gloves.

12 306. On or about February 24, 2021, Plaintiff received an email from Cintas
13 confirming that all pending orders of Defendant WORLD TECH TOYS' PPE-
14 Aid nitrile gloves were cancelled.

15 307. Cintas additionally requested to be credited for all of Defendant WORLD
16 TECH TOYS' PPE-Aid nitrile gloves that Cintas was returning and informed
17 Plaintiff that Cintas would not pay any outstanding invoices until all credits
18 were issued for the non-conforming PPE-Aid nitrile gloves.

19 308. Cintas thereafter returned all of Defendant WORLD TECH TOYS' PPE-
20 Aid nitrile gloves that were shipped in January and February of 2021, plus an
21 additional 7,594 boxes of the first purchase order made on or about December
22 2, 2020, amounting to a total of 151,654 boxes returned to Plaintiff and a loss
23 sustained by Plaintiff at a sum of \$2,252,061.90, calculated by 151,654 boxes
24 at Plaintiff's purchase price of \$14.85 per box.

25 309. Plaintiff subsequently requested that Defendant INOV8 return all money
26 paid by Plaintiff for all outstanding orders of Defendant WORLD TECH
27 TOYS' PPE-Aid nitrile gloves that had not yet been delivered to Cintas,
28 however, Defendant SAFDEYE informed Plaintiff that he had already

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1 transferred the funds to Defendant WORLD TECH TOYS and that Defendant
2 WORLD TECH TOYS would not refund. Defendant SAFDEYE stated that
3 Defendant WORLD TECH TOYS owed money to the bank and that the bank
4 would take possession of the PPE-Aid gloves if Plaintiff did not. Accordingly,
5 Plaintiff was left with no choice but to have the outstanding orders shipped
6 directly to Plaintiff's warehouse. The sum paid to Defendant INOV8 for these
7 outstanding shipments was approximately \$3,154,140.00, calculated by
8 212,400 boxes of PPE-Aid nitrile gloves at Plaintiff's purchase price of \$14.85
9 per box.

10
11 310. In furtherance of this conversion, Defendants SAFDEYE and LINKER
12 subsequently sent Plaintiff a Settlement Agreement to be executed between
13 Plaintiff and Defendant INOV8.

14 311. The Settlement Agreement, dated March 4, 2021, purported to release
15 Defendant INOV8 from any liabilities relating to certain non-conforming
16 products that Defendant INOV8 purchased on behalf of Plaintiff.

17 312. Specifically, the Settlement Agreement provided that Plaintiff would not be
18 required to take delivery on product ordered from Defendant INOV8, and
19 further, that Plaintiff acknowledged that Defendant INOV8 was required to
20 deposit funds toward certain orders and that *if* Defendant INOV8 was able to
21 recover any sum of the deposits paid, Defendant INOV8 would return the
22 funds to Plaintiff.

23 313. The Settlement Agreement specified that Defendant INOV8 had paid a total
24 deposit amount of approximately \$1,665,725.00, however, the Settlement
25 Agreement did not mandate that Defendant INOV8 return any funds to
26 Plaintiff unless such funds were recovered by Defendant INOV8.

27 314. On information and belief, Plaintiff alleges that Defendants INOV8,
28 SAFDEYE, and LINKER, however, sought to capitalize off of Plaintiff's

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1 losses and hastily induced Plaintiff to sign the Settlement Agreement so that
2 Defendants INOV8, SAFDEYE, and LINKER would not be obligated to return
3 any funds owed to Plaintiff.

4 315. Although Defendant INOV8 returned to Plaintiff the \$3,154,140.00 for
5 Plaintiff's purchase of 600,000 boxes of Defendant WORLD TECH TOYS'
6 PPE-Aid nitrile gloves that Plaintiff was forced to possess and store, as well as
7 an additional \$318,417.50 for non-conforming goods from another supplier,
8 Defendant INOV8 owed Plaintiff approximately \$96,982.50 for shortages on
9 Defendant INOV8's Invoice Nos. 1019, 1015, 1015, and 1016, amounting to a
10 total owed to Plaintiff in the sum of approximately \$508,390.50 on the total
11 \$3,883,965.50 Plaintiff paid to Defendant INOV8 after accounting for the
12 monies returned.

13
14 316. On or about February 19, 2021, Defendant SAFDEYE returned an
15 additional \$250,000 to Plaintiff, rendering the outstanding sum owed to
16 Plaintiff approximately \$258,390.50.

17 317. When Plaintiff inquired as to when Plaintiff could expect to receive the
18 remaining \$258,390.50, Defendant SAFDEYE informed Plaintiff that he had,
19 without Plaintiff's knowledge or authorization, sent the remaining outstanding
20 balance to Defendant WORLD TECH TOYS for a deposit on 300,000 boxes of
21 the PPE-Aid nitrile gloves.

22 318. At no time did Plaintiff instruct Defendant SAFDEYE or Defendant
23 LINKER to continue ordering the non-conforming PPE-Aid nitrile gloves from
24 Defendant WORLD TECH TOYS, especially after sustaining massive
25 financial losses in the return of the PPE-Aid nitrile gloves from Cintas.

26 319. On information and belief, Plaintiff alleges that Defendant SAFDEYE
27 misrepresented the true circumstances of the outstanding balance owed to
28 Plaintiff in the sum of approximately \$258,390.50 and intends to withhold

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those funds from Plaintiff by leading Plaintiff to believe that Defendants INOV8, SAFDEYE, and LINKER no longer possess the funds.

320. To date, Plaintiff has not received the sum rightfully owed by Defendants INOV8, SAFDEYE, and LINKER, yet has been forced to sustain massive financial losses as a result of returns of the non-conforming product, interest rate on the non-conforming product that Plaintiff could no longer sell, shipping costs, and costs of storage to warehouse the non-conforming product that Plaintiff could no longer sell.

321. The actions and conduct of Defendants INOV8, SAFDEYE, and LINKER constitute a violation of California Penal Code § 496(c).

322. Plaintiff has been injured by the violation of subdivision (a) by Defendants INOV8, SAFDEYE, and LINKER of California Penal Code § 496 and is therefore entitled to three times the amount of actual damages sustained by Plaintiff in a sum no less than \$775,171.50, costs of suit, and reasonable attorneys' fees.

TENTH CAUSE OF ACTION

CONSPIRACY

(Against All Defendants)

323. Plaintiff hereby incorporates by reference each and all of the allegations contained in all paragraphs of this Complaint as though fully set forth within this Cause of Action.

324. At all material times hereto, Defendants WORLD TECH TOYS, INOV8, SAFDEYE, and LINKER agreed, planned, and conspired to commit unlawful acts as alleged herein, and have and will continue to take acts in furtherance of this conspiracy, which include but are not limited to fraudulently misrepresenting the composition of Defendant WORLD TECH TOYS' PPE-

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1 Aid nitrile gloves as 100% nitrile, thereby inducing Plaintiff to purchase large
2 quantities of the PPE-Aid nitrile gloves, leading to profits for Defendants, and
3 each of them.

4 325. At all times, Defendant WORLD TECH TOYS marketed its PPE-Aid
5 nitrile gloves as 100% nitrile.

6 326. At all times, Defendants SAFDEYE and LINKER represented to Plaintiff
7 that Defendant WORLD TECH TOYS' PPE-Aid nitrile gloves were 100%
8 nitrile.

9 327. Defendant WORLD TECH TOYS represented to Plaintiff that the PPE-Aid
10 nitrile gloves were comprised of 100% nitrile, when in fact, they were
11 comprised of phthalate plasticized PVC.

12 328. Defendants WORLD TECH TOYS, INOV8, SAFDEYE, and LINKER
13 further perpetrated this fraudulent misrepresentation by providing Plaintiff
14 with fraudulent documentation from the United States FDA that purportedly
15 identified Hongray as the manufacturer of Defendant WORLD TECH TOYS'
16 PPE-Aid nitrile gloves. On or about March 19, 2021, a representative on behalf
17 of Plaintiff contacted Hongray, requesting confirmation that the brand PPE-
18 Aid was comprised of 100% nitrile. Plaintiff received a response from
19 Hongray the same day stating that the PPE-Aid brand was not manufactured by
20 Hongray and that it was counterfeit.

21 329. On information and belief, Plaintiff alleges that Defendants WORLD
22 TECH TOYS, INOV8, SAFDEYE, and LINKER knew, or should have
23 known, that the PPE-Aid nitrile gloves were not comprised of 100% nitrile, yet
24 fraudulently and intentionally concealed the true composition of the PPE-Aid
25 nitrile gloves in order to profit at Plaintiff's sole expense.

26 330. On or about November 15, 2021, Plaintiff contacted Mr. Kouyoumijan,
27 informing Mr. Kouyoumijan of the test results Plaintiff had received regarding
28

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1 the PPE-Aid nitrile gloves. In response, Mr. Kouyoumijan requested that
2 Plaintiff forward the specification sheet received from Defendant SAFDEYE.
3 In a telephone conversation between Plaintiff and Mr. Kouyoumijan shortly
4 thereafter, Mr. Kouyoumijan informed Plaintiff that Defendant SAFDEYE was
5 aware that the PPE-Aid nitrile gloves were not 100% nitrile.

6
7 331. Defendants WORLD TECH TOYS, INOV8, SAFDEYE, and LINKER,
8 however, continued to conspire against Plaintiff by representing to Plaintiff
9 that the PPE-Aid nitrile gloves were comprised of 100% nitrile, furthering the
10 specific intent of Defendants, and each of them, to defraud Plaintiff.

11 332. As a direct and proximate result of the misconduct of Defendants WORLD
12 TECH TOYS, INOV8, SAFDEYE, and LINKER, Plaintiff has suffered severe
13 financial damages which will be established according to proof at trial.

14 333. The acts and conduct of Defendants constitute “malice” as defined in Cal.
15 Code of Civ. Pr. § 3294(c)(1) in that it was intended by Defendants to cause
16 injury to Plaintiff or was despicable conduct which was carried on by
17 Defendants with a willful and conscious disregard of the rights or safety of
18 Plaintiff. The acts of Defendants were conducted fraudulently, maliciously,
19 and oppressively and with the advance knowledge, conscious disregard,
20 authorization, ratification, or act of oppression, within the meaning of Cal.
21 Code of Civ. Pr. § 3294. The actions and conduct of Defendants were intended
22 to cause injury to Plaintiff with the intention to deprive Plaintiff of property
23 and legal rights, justifying an award of exemplary and punitive damages in an
24 amount according to proof.
25

26 ///

27 ///

28 ///

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. For compensatory and special damages according to proof at the time of trial, but no less than \$8,136,243.62;
2. For general damages according to proof at the time of trial;
3. For punitive and exemplary damages where allowed by law;
4. For treble damages where allowed by law;
5. For disgorgement of ill-gotten gains;
6. For prejudgment and post-judgment interest;
7. For attorneys' fees pursuant to the applicable statutes; and
8. For such other and further relief that the Court may deem just and proper.

Dated: October 14, 2022

SAN DIEGO BIZ LAW, APC

By: /s/ Stefano Riznyk
Stefano Riznyk, Esq.
Attorney for Plaintiff

San Diego Biz Law, APC
4225 Executive Square, 6th Floor
La Jolla, CA 92037
Voice: 619.793.4827 / Fax 310.388.5933

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: October 14, 2022

SAN DIEGO BIZ LAW, APC

By: /s/ Stefano Riznyk
Stefano Riznyk, Esq.
Attorney for Plaintiff

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VERIFICATION

UNITED STATES DISTRICT COURT)
) ss.
Central District of California)

I, WAYNE BURGESS, am a Plaintiff to this action, and hereby state that I have read the foregoing **FIRST COMPLAINT** and know its contents. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED this 13th day of October, 2022 at Fyffe, Alabama.



WAYNE BURGESS
Bur-Tex Inc.
Vice-President

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La Jolla, CA 92037
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